

2

2003

Date (time) needed

Today (DN)

LRB- 1824 / 1

DOA BUDGET DRAFT

PG, RSM, & RPN: Kmg

Use the appropriate components and routines developed for bills.

>>FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION<<

AN ACT ... [DO NOT generate catalog]; relating to: the budget.

LPS: Type Draft in Order of Inserts attached; When proofed, Analysis by the Legislative Reference Bureau sort the draft.

- If titles are needed in the analysis, in the component bar: For the main heading, execute: create -> anal: -> title: -> head For the subheading, execute: create -> anal: -> title: -> sub For the sub-subheading, execute: create -> anal: -> title: -> sub-sub For the analysis text, in the component bar: For the text paragraph, execute: create -> anal: -> text

head State government sub Other State government employment (see attached)

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

ANALYSIS

whichever is later.

effective on October 1, 2003, or on the first

day of the third month beginning after the budget

bill is enacted, ^{with certain exceptions,} this bill transfers all attorney

positions

in executive branch agencies to DOJ Attorney State,

positions in the Office of the Public Defender, the PSC, ~~Public Service Commission,~~ State of Wisconsin,

the UW System, the Investment Board, and the

Office of the Governor are exempt, as are all

positions identified as hearing examiners, hearing

officers, or administrative law judges. In

addition, the bill retains the chief counsel

positions in each of the 11 major

state agencies.

The bill directs

determine the DOJ attorneys to be assigned to each executive branch agency. The

The bill authorizes DOJ to provide legal services to executive branch agencies and directs the Attorney General, after consultation with the Secretary of Administration, to determine the DOJ attorneys to be assigned to those executive branch agencies. The bill also eliminates the authority of the Selections Board to employ an attorney, and permits other agencies to retain counsel (other than the chief counsel in the 11 major state agencies, and ^{the} ~~other than~~ hearing examiners, hearing officers, and administrative law judges, ^{who are not affected by this bill}) only with the consent of the Attorney General.

FE-5

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1824/1insRM
RJM:.....

SECTION 1. 5.05 (1) (a) of the statutes is amended to read:

5.05 (1) (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.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109.

SECTION 2. 16.009 (3) (bm) of the statutes is amended to read:

16.009 (3) (bm) Employ With the advice and consent of the attorney general, retain 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).

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31, 294; 1991 a. 39, 232; 1993 a. 16, 205; 1995 a. 27 s. 9126 (19); 1997 a. 131; 1999 a. 9, 82, 86, 186.

SECTION 3. 46.03 (18) (d) of the statutes is amended to read:

46.03 (18) (d) The department may compromise or waive all or part of the liability for services received. The sworn statement of ~~the~~ any collection and deportation counsel ~~appointed~~ retained under s. 46.10 (7), the department's legal counsel, or the department secretary, shall be evidence of the services provided and the fees charged for such services.

History: 1971 c. 270 s. 104; 1973 c. 90; 1973 c. 284 ss. 2, 32; 1973 c. 333; 1975 c. 39, 82; 1975 c. 189 s. 99 (1), (2); 1975 c. 224, 377, 413, 422; 1977 c. 29, 193; 1977 c. 196 s. 131; 1977 c. 203, 205, 271, 354; 1977 c. 418 ss. 287 to 289m, 924 (18) (d); 1977 c. 447, 449; 1979 c. 32 s. 92 (1); 1979 c. 34; 1979 c. 175 s. 46; 1979 c. 221, 331, 352; 1981 c. 20, 81; 1981 c. 314 s. 144; 1981 c. 390; 1983 a. 27, 193; 1983 a. 435 s. 7; 1983 a. 447, 474; 1983 a. 532 s. 36; 1985 a. 19, 29, 120, 176, 234, 285, 328, 331; 1985 a. 332 s. 251 (3); 1987 a. 3, 5, 27, 161, 186, 307, 339, 385, 399, 403, 413; 1989 a. 31 ss. 938m to 951, 2909g, 2909i; 1989 a. 56, 105, 107, 122; 1991 a. 39, 277; 1993 a. 16 ss. 851 to 859, 3072d; 1993 a. 98, 377, 385, 446, 481; 1995 a. 27 ss. 2026m to 2038b, 9126 (19); 1995 a. 77, 201, 225, 352, 370, 404, 448; 1997 a. 3, 27, 111, 283, 292; 1999 a. 9, 83; 2001 a. 16, 59, 61, 109.

SECTION 4. 46.10 (6) of the statutes is amended to read:

46.10 (6) The sworn statement of ~~the~~ any collection and deportation counsel retained under sub. (7), the department's legal counsel, or ~~of~~ the secretary, shall be evidence of the fee and of the care and services received by the patient.

History: 1971 c. 125; 1971 c. 213 s. 5; 1973 c. 90 ss. 223, 223m, 560 (3); 1973 c. 198, 333; 1975 c. 39 ss. 347 to 350, 734; 1975 c. 41, 94; 1975 c. 189 s. 99 (2); 1975 c. 198, 199, 224; 1975 c. 413 s. 18; 1975 c. 428; 1975 c. 430 ss. 6, 80; 1977 c. 29, 203; 1977 c. 418 ss. 294 to 295, 924 (50), 929 (18); 1977 c. 428; 1977 c. 447 s. 206; 1977 c. 449 ss. 75, 497; 1979 c. 34; 1979 c. 102 ss. 236 (4), 237; 1979 c. 117, 221, 331; 1981 c. 20 ss. 755 to 758, 2202 (20) (i), (n); 1981 c. 81; 1983 a. 27 ss. 955m, 2202 (20); 1985 a. 29, 176, 281, 332; 1987 a. 307; 1989 a. 31, 56, 96, 212; 1991 a. 39, 221, 315, 316; 1993 a. 16, 27, 385, 437, 446, 479, 481; 1995 a. 27 ss. 2054, 2055, 9130 (4); 1995 a. 77, 224, 404; 1997 a. 3, 27, 35, 237, 308; 1999 a. 9, 103; 2001 a. 16, 59, 103.

SECTION 5. 46.10 (7) of the statutes is amended to read:

46.10 (7) The department shall administer and enforce this section. ~~It shall appoint~~ With the advice and consent of the attorney general, the department may retain an attorney to be designated "collection and deportation counsel" ~~and.~~ [✓] ~~The department may appoint~~ [✓] other necessary assistants. The department may delegate to the collection and deportation counsel such other powers and duties as it 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.

History: 1971 c. 125; 1971 c. 213 s. 5; 1973 c. 90 ss. 223, 223m, 560 (3); 1973 c. 198, 333; 1975 c. 39 ss. 347 to 350, 734; 1975 c. 41, 94; 1975 c. 189 s. 99 (2); 1975 c. 198, 199, 224; 1975 c. 413 s. 18; 1975 c. 428; 1975 c. 430 ss. 6, 80; 1977 c. 29, 203; 1977 c. 418 ss. 294 to 295, 924 (50), 929 (18); 1977 c. 428; 1977 c. 447 s. 206; 1977 c. 449 ss. 75, 497; 1979 c. 34; 1979 c. 102 ss. 236 (4), 237; 1979 c. 117, 221, 331; 1981 c. 20 ss. 755 to 758, 2202 (20) (i), (n); 1981 c. 81; 1983 a. 27 ss. 955m, 2202 (20); 1985 a. 29, 176, 281, 332; 1987 a. 307; 1989 a. 31, 56, 96, 212; 1991 a. 39, 221, 315, 316; 1993 a. 16, 27, 385, 437, 446, 479, 481; 1995 a. 27 ss. 2054, 2055, 9130 (4); 1995 a. 77, 224, 404; 1997 a. 3, 27, 35, 237, 308; 1999 a. 9, 103; 2001 a. 16, 59, 103.

SECTION 6. 46.27 (7g) (h) of the statutes is amended to read:

46.27 (7g) (h) The department, with the advice and consent of the attorney general, ~~may contract with or employ~~ retain an attorney to probate estates to recover under this subsection the costs of care.

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9, 63; 2001 a. 16, 103.

SECTION 7. 49.22 (7m) of the statutes is amended to read:

49.22 (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, with the advice and consent of the attorney general, ~~may contract with or employ~~ retain 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).

History: 1975 c. 82; 1977 c. 26, 29, 203, 418; 1979 c. 196, 221; 1981 c. 20, 93; 1983 a. 27; 1985 a. 29 ss. 861m to 866, 2390 to 2399; 1987 a. 27; 1987 a. 332 s. 64; 1987 a. 399, 403, 413; 1989 a. 31; 1991 a. 39; 1993 a. 16, 481; 1995 a. 27 ss. 2128m to 2134, 9126 (19), 9130 (4); 1995 a. 77, 187, 201, 225, 289; 1995 a. 404 ss. 39 to 43, 45, 46, 48, 173, 174; Stats. 1995 s. 49.22; 1997 a. 27, 105, 191, 237; 1999 a. 32; 2001 a. 16.

SECTION 8. 49.496 (3) (f) of the statutes is amended to read:

49.496 (3) (f) The department, with the advice and consent of the attorney general, may ~~contract with or employ~~ retain an attorney to probate estates to recover under this subsection the costs of care.

History: 1991 a. 39, 269; 1993 a. 301, 437, 491; 1995 a. 27; 1997 a. 27; 1999 a. 9.

SECTION 9. 49.682 (6) of the statutes is amended to read:

49.682 (6) The department, with the advice and consent of the attorney general, may ~~contract with or employ~~ retain an attorney to probate estates to recover under this section the costs of care.

History: 1995 a. 27 ss. 3044b to 3044j; Stats. 1995 s. 49.682; 1995 a. 225 ss. 127, 128; 1999 a. 9.

SECTION 10. 73.03 (22) of the statutes is amended to read:

73.03 (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~~ With the advice and consent of the attorney general a member of the staff of the department may appear for the department.

History: 1971 c. 40, 215; 1973 c. 90; 1975 c. 39; 1977 c. 143; 1977 c. 196 s. 130 (7); 1977 c. 313; 1979 c. 34; 1979 c. 110 s. 60 (13); 1979 c. 221, 350; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 275 s. 15 (4); 1983 a. 524; 1983 a. 538 s. 269 (3); 1985 a. 12, 29, 273; 1987 a. 4, 27, 186; 1987 a. 312 s. 17; 1987 a. 328, 378, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 74, 335; 1991 a. 39, 219, 313, 316; 1993 a. 16, 112, 205, 490; 1995 a. 27 ss. 3434g to 3440m, 9145 (1); 1995 a. 209, 233; 1997 a. 27, 35, 191, 237, 252; 1999 a. 9, 31, 185; 2001 a. 16, 44, 104, 107, 109.

SECTION 11. 76.08 (1) of the statutes is amended to read:

76.08 (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.

History: 1971 c. 125 s. 521; Sup. Ct. Order, 67 Wis. 2d 585, 751 (1975); 1977 c. 449; 1989 a. 31.

SECTION 12. 87.12 (6) of the statutes is amended to read:

87.12 (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, ^{plain} and, with the advice and consent of the attorney general, retain attorneys as it may deem advisable for the proper execution of its duties, and to fix their compensation.

History: 1983 a. 368; 1991 a. 221, 316; 1993 a. 184.

SECTION 13. 93.22 (2) of the statutes is amended to read:

93.22 (2) The department may, with the approval of the governor and the advice and consent of the attorney general, ~~appoint special~~ retain 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.

History: 1977 c. 29 s. 1650m (4); 1991 a. 309; 1993 a. 213.

SECTION 14. 102.81 (2) of the statutes is amended to read:

102.81 (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, with the advice and consent of the attorney general, 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~~ retained 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).

History: 1989 a. 64; 1995 a. 117.

SECTION 15. 108.14 (3m) of the statutes is amended to read:

108.14 (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,~~ with the advice and consent of the attorney general, is retained by 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.

History: 1971 c. 53; 1973 c. 90 s. 559; 1973 c. 247; 1975 c. 343; 1977 c. 29, 133; 1977 c. 196 s. 131; 1977 c. 272 s. 98; 1979 c. 34 s. 2102 (25) (a); 1979 c. 110 s. 60 (11); 1979 c. 221; 1981 c. 36 ss. 18, 45; 1983 a. 8 s. 54; 1983 a. 189 s. 329 (28); 1983 a. 388; 1985 a. 17; 1985 a. 29 ss. 1664 to 1668, 3202 (29); 1985 a. 332; 1987 a. 38, 255; 1989 a. 77, 139, 303, 359; 1991 a. 89; 1993 a. 373, 490, 492; 1995 a. 27, 118, 225; 1997 a. 39; 1999 a. 83; 2001 a. 35, 105.

SECTION 16. 186.235 (11) (dg) of the statutes is amended to read:

186.235 (11) (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 retain counsel, with the advice and consent of the attorney general, and may 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.

History: 1995 a. 151 ss. 12 to 14, 16, 65, 191 to 231, 233, 235, 237 to 264, 292; 1995 a. 225 s. 429; 1995 a. 325 ss. 1, 2; 1995 a. 417; 1997 a. 35, 152.

SECTION 17. 196.02 (8) of the statutes is amended to read:

~~196.02 (8) EMPLOY COUNSEL. The commission, with the advice and consent of the attorney general, may employ retain counsel in for 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.~~

History: 1977 c. 29 ss. 1329, 1331, 1333, 1352; 1977 c. 418; 1981 c. 148; 1983 a. 27, 53; 1985 a. 297; 1987 a. 403; 1989 a. 344; 1993 a. 496; 1997 a. 140; 1999 a. 150.

SECTION 18. 214.72 (1) (b) of the statutes is amended to read:

214.72 (1) (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 the department's legal counsel and includes any member of a financial regulator's immediate family, as defined in s. 19.42 (7).

History: 1991 a. 221; 1995 a. 27.

SECTION 19. 215.32 (3) of the statutes is amended to read:

215.32 (3) ~~EMPLOYMENT~~ OF COUNSEL; RETENTION OF OFFICERS AND EMPLOYEES OF ASSOCIATION. The division may employ retain necessary counsel, with the advice and

RETENTION

consent of the attorney general, and may employ experts in a liquidation under this section and may retain any officer or employee of the association.

History: 1975 c. 359, 421; 1977 c. 187 s. 134; 1983 a. 167, 219, 524; 1991 a. 316; 1995 a. 27, 104, 225; 1997 a. 35.

SECTION 20. 220.08 (4) of the statutes is amended to read:

220.08 (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 retain such counsel, with the advice and consent of the attorney general, and may 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.

History: 1983 a. 408, 524; 1985 a. 127; Sup. Ct. Order, 136 Wis. 2d xi (1987); 1991 a. 316; 1995 a. 27, 336.

SECTION 21. 301.03 (18) (d) of the statutes is amended to read:

301.03 (18) (d) Compromise or waive all or part of the liability for services received as the department considers necessary to efficiently administer this subsection, subject to such conditions as the department considers appropriate. The

sworn statement of ~~the~~ any collection and deportation counsel ~~appointed~~ retained under s. 301.12 (7), the department's legal counsel, or the secretary, shall be evidence of the services provided and the fees charged for those services.

History: 1989 a. 31, 107, 121, 188, 336; 1991 a. 39; 1993 a. 16, 377, 479; 1995 a. 27 ss. 6355, 6356m, 6356p, 9126 (19); 1995 a. 77, 141; 1997 a. 27, 35, 237, 275, 283, 284; 1999 a. 9, 32; 2001 a. 16, 109.

SECTION 22. 301.12 (6) of the statutes is amended to read:

301.12 (6) The sworn statement of ~~the~~ any collection and deportation counsel retained under sub. (7), of the department's legal counsel, or of the secretary, shall be evidence of the fee and of the care and services received by the resident.

History: 1995 a. 27 ss. 6361, 9126 (19); 1995 a. 77; 1997 a. 237; 1999 a. 103; 2001 a. 59.

SECTION 23. 301.12 (7) of the statutes is amended to read:

301.12 (7) The department shall administer and enforce this section. ~~The~~ With the advice and consent of the attorney general, the department shall appoint ~~may retain~~ an attorney to be designated "collection and deportation counsel" ~~and.~~ The department may appoint 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.

History: 1995 a. 27 ss. 6361, 9126 (19); 1995 a. 77; 1997 a. 237; 1999 a. 103; 2001 a. 59.

SECTION 24. 655.27 (5) (a) 3. of the statutes is amended to read:

655.27 (5) (a) 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, with the advice and consent of the attorney general, 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.

History: 1975 c. 37, 79, 199; 1977 c. 29, 131; 1979 c. 34, 194; 1981 c. 20; 1983 a. 27, 158; 1985 a. 340; 1987 a. 27, 186, 247, 399; 1989 a. 102, 187, 332; 1991 a. 214, 315; 1993 a. 473; 1995 a. 10; 2001 a. 65.

SECTION 25. 767.29 (1) (dm) 1m. of the statutes is amended to read:

767.29 (1) (dm) 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 and with the advice and consent of the attorney general, may ~~contract with or employ~~ retain 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.

History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 82, 200; 1975 c. 401 s. 4; 1977 c. 105 s. 59; 1977 c. 271, 418, 447; 1979 c. 32 ss. 50, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s. 2202 (20) (m); 1983 a. 27, 302; 1985 a. 29, 176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104tm, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, 105, 191, 252; 1999 a. 9; 2001 a. 16, 59, 61, 105.

SECTION 26. 863.39 (3) (a) of the statutes is amended to read:

863.39 (3) (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.

History: 1979 c. 221; 1983 a. 408; 1987 a. 27 s. 3200 (47); 1993 a. 486.

SECTION 27. 880.295 (1) (a) of the statutes is amended to read:

880.295 (1) (a) When a patient in any state or county hospital or mental hospital or in any state institution for the mentally deficient, or a resident of the county home or infirmary, appears in need of a guardian, and does not have a

guardian, the department of health and family services ~~by its collection and deportation counsel~~, or the county corporation counsel, may apply to the circuit court of the county in which the patient resided at the time of commitment or to the circuit court of the county in which the facility in which the patient resides is located for the appointment of a guardian of the person and estate, or either, or for the appointment of a conservator of the estate, and the court, upon the application, may appoint the guardian or conservator in the manner provided for the appointment of guardians under ss. 880.08 (1) and 880.33 or for the appointment of conservators under s. 880.31.

History: 1971 c. 41 ss. 8, 12; Stats. 1971 s. 880.295; 1975 c. 393, 421; 1977 c. 449; 1989 a. 31; 1993 a. 486; 1995 a. 27 s. 9126 (19); 2001 a. 102.

SECTION 28. 880.295 (2) of the statutes is amended to read:

880.295 (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.

History: 1971 c. 41 ss. 8, 12; Stats. 1971 s. 880.295; 1975 c. 393, 421; 1977 c. 449; 1989 a. 31; 1993 a. 486; 1995 a. 27 s. 9126 (19); 2001 a. 102.

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FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1824/?insrn
RPN:.....

1 ~~insert ppn.~~

2 SECTION 1. 20.395 (4) (aq) of the statutes is amended to read:

3 20.395 (4) (aq) *Departmental management and operations, state funds.* The
4 amounts in the schedule for departmental planning and administrative activities
5 and the administration and management of departmental programs except those
6 programs under subs. (2) (bq), (cq), and (dq) and (3) (iq), including those activities in
7 s. 85.07 and ~~including not less than \$220,000 in each fiscal year to reimburse the~~
8 ~~department of justice for legal services provided the department under s. 165.25 (4)~~
9 (a) and including activities related to the transportation employment and mobility
10 program under s. 85.24 that are not funded from the appropriation under sub. (1)
11 (bs), (bv) or (bx), the scholarship and loan repayment incentive grant program under
12 s. 85.107, and the Type 1 motorcycle, moped, and motor bicycle safety program under
13 s. 85.30 and to match federal funds for mass transit planning.

History: 1971 c. 40 s. 93; 1971 c. 42, 107; 1971 c. 125 ss. 122 to 137, 522 (1); 1971 c. 197, 211, 215, 307; 1973 c. 90, 142, 243, 333, 336; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 200, 224, 270, 288, 340, 422; 1977 c. 29, 377, 418; 1979 c. 34 ss. 322e to 420, 574, 575; 1979 c. 221; 1981 c. 20 ss. 238 to 300, 2202 (51) (c), (e); 1981 c. 165, 234; 1981 c. 314 s. 146; 1981 c. 347 s. 80; 1981 c. 362; 1983 a. 27 ss. 270g to 315, 2202 (20); 1983 a. 243; 1985 a. 29 ss. 357 to 402, 3202 (51) (a); 1985 a. 65, 76, 341; 1987 a. 27, 137, 349, 369, 399, 403; 1989 a. 31, 56; 1991 a. 39, 104, 239, 269; 1993 a. 16, 285, 354, 437; 1995 a. 27, 113, 201, 338, 445; 1997 a. 27, 35, 135, 237, 255; 1999 a. 9, 109, 146, 167, 185; 2001 a. 16, 104, 109.

14 SECTION 2. 20.455 (1) (k) of the statutes is repealed.

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

15 SECTION 3. 20.867 (3) (w) of the statutes is amended to read:

16 20.867 (3) (w) *Bonding services.* From the capital improvement fund, a sum
17 sufficient to pay the expenses of contracting and managing public debt and revenue
18 obligations issued pursuant to ch. 18, for reimbursing the legislative audit bureau
19 for providing opinion audits of financial statements and the general fund for bond

1 counsel services under s. 165.25 (4) (b) (ag), and for the purchase of any higher
2 education bonds presented for payment prior to maturity under s. 18.83.

History: 1971 c. 125; 1973 c. 90 ss. 132 to 140g; 1975 c. 39; 1977 c. 29 ss. 352m to 353m, 1654 (8) (c), 1656 (3); 1977 c. 418; 1979 c. 34 ss. 629 to 631, 677w; 1979 c. 102 s. 4; 1979 c. 176, 177, 221; 1981 c. 1, 20, 93; 1981 c. 314 s. 146; 1981 c. 317; 1983 a. 27; 1983 a. 36 s. 96 (3); 1985 a. 6, 29; 1985 a. 332 s. 253; 1987 a. 27, 399; 1989 a. 31, 46, 219, 359; 1991 a. 32, 39, 269; 1993 a. 16; 1995 a. 27; 1999 a. 9, 167; 2001 a. 16.

3 SECTION 4. 165.25 (3r) of the statutes is amended to read:

4 165.25 (3r) AVOID CONFLICT OF INTEREST. Require that attorneys in different
5 organizational subunits in the department prosecute violations of chs. 562 to 569 or
6 Indian gaming compacts entered into under s. 14.035 and defend any department,
7 agency, official, employee or agent under subs. (1), (4) (a) (ag) and (6).

History: 1971 c. 125 s. 522 (1); 1971 c. 215; 1973 c. 333; 1975 c. 81, 199; 1977 c. 29 s. 1656 (27); 1977 c. 187, 260, 273, 344; 1981 c. 20, 62, 96; 1983 a. 27; 1983 a. 36 s. 96 (2), (3), (4); 1983 a. 192; 1985 a. 29, 66; 1987 a. 416; 1989 a. 31, 115, 187, 206, 359; 1991 a. 25, 39, 269; 1993 a. 27, 28, 365; 1995 a. 27 ss. 4453 to 4454m, 9126 (19); 1995 a. 201; 1997 a. 27, 111; 2001 a. 16.

8 SECTION 5. 165.25 (4) (a) of the statutes is renumbered 165.25 (4) (ag) and
9 amended to read:

10 165.25 (4) (ag) The department of justice shall may furnish all legal services
11 required by the investment board, the lottery division in the department of revenue,
12 the public service commission, the department of transportation, the department of
13 natural resources, the department of tourism and the department of employee trust
14 funds to state agencies, together with any other services, including stenographic and
15 investigational, as are necessarily connected with the legal work. Except as provided in s. 165.065, the
16 general, after consultation with the secretary of the department of administration,
17 shall determine the attorneys employed by the department of justice who are
18 assigned to furnish legal services to state agencies.

History: 1971 c. 125 s. 522 (1); 1971 c. 215; 1973 c. 333; 1975 c. 81, 199; 1977 c. 29 s. 1656 (27); 1977 c. 187, 260, 273, 344; 1981 c. 20, 62, 96; 1983 a. 27; 1983 a. 36 s. 96 (2), (3), (4); 1983 a. 192; 1985 a. 29, 66; 1987 a. 416; 1989 a. 31, 115, 187, 206, 359; 1991 a. 25, 39, 269; 1993 a. 27, 28, 365; 1995 a. 27 ss. 4453 to 4454m, 9126 (19); 1995 a. 201; 1997 a. 27, 111; 2001 a. 16.

19 SECTION 6. 165.25 (4) (ad) of the statutes is created to read:

20 165.25 (4) (ad) In this subsection, "state agency" means an office, commission,
21 department, independent agency, or board in the executive branch of state
22 government.

1 SECTION 7. 165.25 (4) (am) of the statutes is repealed.

2 SECTION 8. 165.25 (4) (ar) of the statutes is repealed.

3 SECTION 9. 165.25 (4) (b) of the statutes is repealed.

4 SECTION 10. 165.25 (4) (bn) of the statutes is repealed.

5 SECTION 11. 165.25 (4) (c) of the statutes is amended to read:

plain

6 165.25 (4) (c) The department shall ²at the end of each fiscal year, ~~except for~~
7 ~~programs financed out of the general fund and except for services required to be~~
8 ~~provided by statute other than this subsection, render~~ submit to the respective
9 agencies ~~enumerated in this subsection~~ department of administration an itemized
10 statement of the total cost of the legal services, including stenographic and
11 investigational, ^{that} are necessarily connected with the legal work, and other services,
12 including travel expenses and legal expenses enumerated in s. 20.455 (1) (d),
13 provided to a state agency in that fiscal year.

History: 1971 c. 125 s. 522 (1); 1971 c. 215; 1973 c. 333; 1975 c. 81, 199; 1977 c. 29 s. 1656 (27); 1977 c. 187, 260, 273, 344; 1981 c. 20, 62, 96; 1983 a. 27; 1983 a. 36 s. 96 (2), (3), (4); 1983 a. 192; 1985 a. 29, 66; 1987 a. 416; 1989 a. 31, 115/187, 206, 359; 1991 a. 25, 39, 269; 1993 a. 27, 28, 365; 1995 a. 27 ss. 4453 to 4454m, 9126 (19); 1995 a. 201; 1997 a. 27, 111; 2001 a. 16.

14 SECTION 12. 165.25 (4) (d) of the statutes is repealed.

15 SECTION 13. 287.91 (4) of the statutes is repealed.

16 SECTION 14. 299.95 of the statutes is amended to read:

17 **299.95 Enforcement; duty of department of justice; expenses.** The
18 attorney general shall enforce chs. 281 to 285 and 289 to 295 and this chapter, except
19 ss. 281.48, 285.57, 285.59, and 299.64, and all rules, special orders, licenses, plan
20 approvals, permits, and water quality certifications of the department, except those
21 promulgated or issued under ss. 281.48, 285.57, 285.59, and 299.64 and except as
22 provided in s. 285.86. The circuit court for Dane county or for any other county where
23 a violation occurred in whole or in part has jurisdiction to enforce chs. 281 to 285 and
24 289 to 295 or this chapter or the rule, special order, license, plan approval, permit,

1 or certification by injunctive and other relief appropriate for enforcement. For
2 purposes of this proceeding where chs. 281 to 285 and 289 to 295 or this chapter or
3 the rule, special order, license, plan approval, permit or certification prohibits in
4 whole or in part any pollution, a violation is considered a public nuisance. The
5 department of natural resources may enter into agreements with the department of
6 justice to assist with the administration of chs. 281 to 285 and 289 to 295 and this
7 chapter. ~~Any funds paid to the department of justice under these agreements shall~~
8 ~~be credited to the appropriation account under s. 20.455 (1) (k).~~

History: 1975 c. 39 s. 734; 1979 c. 34 s. 985g; 1979 c. 221; Stats. 1979 s. 144.98; 1981 c. 374; 1989 a. 284; 1993 a. 243; 1995 a. 27; 1995 a. 227 s. 829; Stats. 1995 s. 299.95; 1995 a. 290 s. 12; 1997 a. 35; 1999 a. 9; 2001 a. 6.

9 **SECTION 15. 564.02 (3) (c) of the statutes is repealed.**

SEC. CR: 16.004 (15)

16.004 (15) ^B LEGAL SERVICES ^(CS). Annually, the

department shall assess each state agency
for the ~~total~~ cost of the legal services provided
to the state agency ~~under~~ by the department of justice
(based upon the

itemized statement under s. 165.25 (4)(c). The

department shall credit all moneys received

from state agencies under this subsection to the

appropriation account under s. 20.505 (1)(kr).

(kr)

Section #. 20.455 (1) (km) of the statutes is amended to read:

20.455 (1) (km) *Interagency and intra-agency assistance.* The amounts in the schedule to provide legal services to state agencies. ~~All~~ moneys received from the department or any other state agency for legal services shall be credited to this appropriation.

History: 1971 c. 125; 1973 c. 90, 336; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 29, 418; 1979 c. 34 ss. 286m, 290, 523 to 526; 1979 c. 189, 219, 355; 1981 c. 20, 169; 1983 a. 27 ss. 427 to 430, 1800; 1983 a. 199, 523; 1985 a. 29, 120; 1987 a. 27, 326, 399; 1989 a. 31, 122, 336; 1991 a. 11, 39, 269; 1993 a. 16, 98, 193, 460, 496; 1995 a. 27 ss. 1014h to 1029, 9126 (19), 9130 (4); 1995 a. 227; 1997 a. 27, 237; 1999 a. 5, 9, 186; 2001 a. 16, 109.

Except as provided ⁱⁿ ~~under~~ par. (c) ^{kr} (kr), ^{all} all

827. CR; 20.455(1)(kr)^{kr}

20.455(1)(kr)^{kr} (Legal services) All moneys

transferred from the appropriation accounts

under s. 20.505(1)(kr)^{kr}, to provide legal

services to state agencies.

Note: bud

SER. CR. W. 505 (1) (kr)

~~W. 505 (1) (kr)~~ ^(I) Legal services. All moneys
(kr)

received from assessments levied against

state agencies under s. 16.0507 (15) for legal

services provided by the department of justice;

to be transferred to the appropriated account

under s. 20.455 (1) (kr) ✓
kr

Note: bud

2003

Nonstat File Sequence: **AAA**

LRB _____ / _____

_____ : _____ : _____

NONSTAT SESSLAW

1. In the component bar:

For the action phrase, execute: create → action: → *NS: → nonstat

For the budget action phrase, execute: create → action: → *NS: → 91XX

For a subsection, execute: create → text: → *NS: → sub

For a paragraph, execute: create → text: → *NS: → par

For a subdivision, execute: create → text: → *NS: → subd

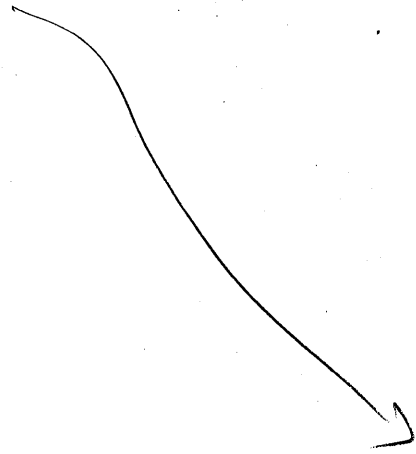
For a subdivision paragraph, execute: create → text: → *NS: → subpar

2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9100 department code.

SECTION # MM91 609. Nonstatutory provisions; ...

other.

.....
→ auto ref. (MA)
(#1) W TRANSFER OF ATTORNEY POSITIONS.



of this statute.
all parts
of this statute.

(a) In this subsection, "state agency" means
an office, commission, department, independent
agency, or board in the executive branch
of state government, except the following:

- # 1. The public service commission.
- # 2. The public defender board.
- 3. The Board of Regents of the University
of Wisconsin System.

4. The University of Wisconsin

Hospitals and Clinics Board

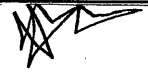
~~of the State of Wisconsin~~

5. The Investment Board.

6. The office of the governor.

→ state of Wisconsin

SPS:



23

auto ref.
"2B"

auto ref.
"2A"

(b) Except as provided in paragraph (c),
on the effective date of this paragraph all
attorney positions in state agencies are
transferred to the department of justice.

~~(c) Paragraph (c) does not apply to any
position identified as a hearing officer,
hearing examiner, or administrative law judge.~~

auto ref. "2A"

(c) 1. Paragraph (b) does not apply to
by the secretary of administration
any position identified as a hearing officer,
hearing examiner, or administrative law
judge.

2. One attorney position in each of
the following state agencies shall not be
transferred under paragraph (b):
auto ref. "2B"

- a. Department of Administration.
- b. Department of Agriculture, Trade and Consumer Protection.
- c. Department of Commerce.
- d. Department of Corrections.
- e. Department of Financial Institutions.
- f. Department of Health and Family Services.
- g. Department of Natural Resources.
- h. Department of Public Instruction.
- i. Department of Workforce Development.
- j. Department of Transportation.
- k. Office of the Commissioner of Insurance.

(d) All incumbent employees holding positions ^{auto ref. "2B"} that are transferred under paragraph (b) are transferred on the effective date of this paragraph ~~a~~ to the department of justice. Employees transferred under this paragraph have all the rights and the same status under subchapter V of chapter 111 and chapter 230 of the statutes in the department of justice that they enjoyed in their ^{respective} ~~respective~~ state agency immediately before the transfer. Notwithstanding ⁴ section 230.28 (4) of the statutes, no employee so transferred who has attained permanent status in class is required to serve a probationary period.

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdate**
For the text, execute: **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # ____ . **Effective date.**

(#1) () This act takes effect on

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # ____ . **Effective dates;**

..... This act takes effect on the day after publication, except as follows:

(#1) () The treatment of sections of the statutes takes effect on

1. In the component bar: For the budget action phrase, execute:.. **create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

SECTION 94 60 . **Effective dates;** *other.*

(#1) *by transfer of attorney positions.* The treatment of sections *INSERT E*

of the statutes takes effect on *October 1, 2003, or on the first day of the 3rd month beginning after the date of publication, whichever is later.*

and SECTION 9160 (1) of this act (End) [rev. 9/17/02 2003effdate(fm)]
↳ auto ref. "MA"

~~167~~ ~~311-513~~
~~650-159~~
~~155-107~~

(E) 16.004 (15) ✓

5.05 (1) (a), 16.009 (3) (bm) ✓, 46.27 (7) ✓

20.395 (4) (ag) ✓, ~~20.445~~ (1) (k) ✓, 46.03 (12) (d) ✓, 46.10 (6) and (7) ✓,
20.455 ✓, 46.27 (7g) (h) ✓, 73.03 (22) ✓, 76.08 (1) ✓

49.22 (7m) ✓, 49.496 (3) (f) ✓, 49.682 (6) ✓, 87.12 (6) ✓,
93.22 (2) ✓, 108.14 (3m) ✓

~~88.21 (5)~~, 102.81 (2) ✓, 165.25 (3r) ✓, ~~105.25 (4)~~ (7) (a) ✓, and
(ad) ✓, (am) ✓, (ar) ✓, (b) ✓, (bn) ✓, and (c) ✓, and (d) ✓

186.235 (11) (dg) ✓, ~~156.42 (11)~~ 214.72 (1) (6) ✓

215.32 (3) ✓, 222.08 (4) ✓, 287.91 (4) ✓, 299.95 ✓

301.03 (18) (d) ✓, 301.12 (6) and (7) ✓, 564.02 (3) (c) ✓, 1m. ✓
655.27 (5) (a) 3. ✓, 767.29 (1) (dm) 1m. ✓, 863.39 (3) (a) ✓

and 880.295 (1) (a) ✓ and (2) ✓

20.455 (1) (km) ✓, and (kr) ✓, 20.505 (1) (kr) ✓, 20.867 (3) (w) ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1824/1dnRM

PG/RPN/RJM: /...
King

Jennifer Kraus:

Attached is the draft ^{that} you requested concerning the transfer ~~and elimination~~ of certain attorney positions. As you review the draft, please note the following:

1. We were unsure how to treat those statutes that authorize a major state agency to employ or retain counsel in addition to its general counsel or that authorize any body in state government to employ or retain counsel for special circumstances. As a general rule, we amended those statutes to permit such an agency or body to retain counsel with the advice and consent of the attorney general.
2. Please note that we eliminated the statutory authority for the elections board to employ an attorney under s. 5.05 (1) (a), stats.
3. Per your instructions, we did not make any change to s. 25.18 (1) (a), stats., which deals with SWIB, or to s. 440.04 (2), stats., which deals with DRL. We also did not change the governor's authority to hire special counsel under s. 14.11 (2), stats., or the authority of a drainage board to employ legal counsel under s. 88.21 (5), stats.

Please let us know if you desire any changes to the draft or if you have any questions.

insert
other
"RN"

to s. 196.02 (8) which
deals with the PSC;
, stats.,

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1824/?dnrn
RPN:.....

Ins. "KN"

4. This draft eliminates ~~s.~~ ^{s.} 165.25 (4) (am), (ar), (b), and (d) of the statutes because those functions are subsumed under the renumbered s. 165.25 (4) (ag). This change includes eliminating the specific requirement to furnish bond counsel, and replaces it with the general language of furnishing legal services to state agencies.
5. The draft ~~has~~ ^{directs} the AG, after consulting with the secretary of administration, ~~deciding~~ ^{to determine} the attorneys ~~that~~ are assigned to specific agencies. This language was used so that one agency makes the decision. This ensures that a decision will be made when the two agencies are not able to cooperate in making a decision.

employed by DUS who

~~Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us~~

~~6. Please note the amendment to s. 20.455 (i) (km). OK?~~

6. Please note the funding mechanism that was used for ss. 16.004 (15), w. 445 (1) (km) ^{Kr} and (kr), and w. 505 (1) (kr), ^{Kr} stats.

7. We did not repeal s. 165.065, although the revised s. 165.25 (4) (ag) ^{ag} may make that section unnecessary. Do you want to repeal s. 165.065? this initial draft, see

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1824/1dn
PG/RPN/RJM:kmg:ch

January 31, 2003

Jennifer Kraus:

Attached is the draft that you requested concerning the transfer of certain attorney positions. As you review the draft, please note the following:

1. We were unsure how to treat those statutes that authorize a major state agency to employ or retain counsel in addition to its general counsel or that authorize any body in state government to employ or retain counsel for special circumstances. As a general rule, we amended those statutes to permit such an agency or body to retain counsel with the advice and consent of the attorney general.
2. Please note that we eliminated the statutory authority for the elections board to employ an attorney under s. 5.05 (1) (a), stats.
3. Per your instructions, we did not make any change to s. 25.18 (1) (a), stats., which deals with SWIB; to s. 196.02 (8), stats., which deals with the PSC; or to s. 440.04 (2), stats., which deals with DRL. We also did not change the governor's authority to hire special counsel under s. 14.11 (2), stats., or the authority of a drainage board to employ legal counsel under s. 88.21 (5), stats.
4. This draft eliminates s. 165.25 (4) (am), (ar), (b), and (d) of the statutes because those functions are subsumed under the renumbered s. 165.25 (4) (ag). This change includes eliminating the specific requirement to furnish bond counsel, and replaces it with the general language of furnishing legal services to state agencies.
5. The draft directs the AG, after consulting with the secretary of administration, to determine the attorneys employed by DOJ who are assigned to specific agencies. This language was used so that one agency makes the decision. This ensures that a decision will be made when the two agencies are not able to cooperate in making a decision.
6. Please note the funding mechanism that we used for this initial draft; see ss. 16.004 (15), 20.445 (1) (km) and (kr), and 20.505 (1) (kr), stats.
7. We did not repeal s. 165.065, although the revised s. 165.25 (4) (ag) may make that section unnecessary. Do you want to repeal s. 165.065?

Please let us know if you desire any changes to the draft or if you have any questions.

Peter R. Grant
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Legislative Attorney
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E-mail: robert.marchant@legis.state.wi.us

Grant, Peter

From: Kraus, Jennifer
Sent: Friday, January 31, 2003 9:06 PM
To: Grant, Peter
Subject: FW: Keep Ethics and Elections Attorneys

FYI - these two plus PSC are now in the excluded list.

Jenny

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

From: Caucutt, Dan
To: Schaeffer, Carole
Cc: Kraus, Jennifer
Sent: 1/31/2003 6:22 PM
Subject: Keep Ethics and Elections Attorneys

Dave just stopped by to announce this decision.

TC from Jenny 2/2/03

1. p. 9 l. 16-17 : decision must be just
2. re 165-25 (4) : make sure bldg. comm. is included if rep (b)
3. exclude DURL explicitly

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

LRB-1824/1dn
PG/RPN/RJM:kmg:ch

January 31, 2003

Jennifer Kraus:

Attached is the draft that you requested concerning the transfer of certain attorney positions. As you review the draft, please note the following:

1. We were unsure how to treat those statutes that authorize a major state agency to employ or retain counsel in addition to its general counsel or that authorize any body in state government to employ or retain counsel for special circumstances. As a general rule, we amended those statutes to permit such an agency or body to retain counsel with the advice and consent of the attorney general.
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4. This draft eliminates s. 165.25 (4) (am), (ar), (b), and (d) of the statutes because those functions are subsumed under the renumbered s. 165.25 (4) (ag). This change includes eliminating the specific requirement to furnish bond counsel, and replaces it with the general language of furnishing legal services to state agencies.
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6. Please note the funding mechanism that we used for this initial draft; see ss. 16.004 (15), 20.445 (1) (km) and (kr), and 20.505 (1) (kr), stats.
7. We did not repeal s. 165.065, although the revised s. 165.25 (4) (ag) may make that section unnecessary. Do you want to repeal s. 165.065?

Please let us know if you desire any changes to the draft or if you have any questions.

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