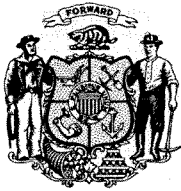


(B)



State of Wisconsin
2007 - 2008 LEGISLATURE

p4

LRB-1182/P3

CMH&RAC:kjf:rs

Feb 10

Innote

stayb

DOA:.....Pawasarat, BB0250 - Attorney consolidation and transfer to DOA
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Do NOT Gen

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

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Government Accountability Board

This bill creates a division of legal services in DOA that is authorized to provide legal services to executive branch agencies. With certain exceptions, this bill transfers all attorney positions and all legal staff positions in executive branch agencies to the Division of Legal Services effective on July 1, 2008. This bill also transfers all positions identified as hearing examiners, hearing officers, or administrative law judges, other than such positions in DWD, to the Division of Hearings and Appeals in DOA. Attorney positions in DOJ, the Office of the State Public Defender, the PSC, the UW System, the Employment Relations Commission, the State of Wisconsin Investment Board, the Elections Board, the Ethics Board, and the Office of the Governor are exempt, as are all state employees working in an office of a district attorney. In addition, the bill retains a general counsel or lead attorney position in each of 17 major state agencies and offices.

Under this bill, executive branch agencies that are authorized or required to employ or retain an attorney may do so only in the following ways: (1) employ an attorney in a position authorized by law; (2) contract with DOA for legal services; (3) allow DOJ to furnish legal services if DOJ is required by law to furnish the services; (4) allow or contract with the Division of Hearings and Appeals to furnish legal services if the Division of Hearings and Appeals is required or authorized by law to

(18)

furnish the services; or (5) employ or retain any attorney who is not a state employee, subject to the approval of the governor.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.04 (4) of the statutes is created to read:

2 15.04 (4) **LEGAL SERVICES.** If a department or independent agency is authorized
3 or required to employ or retain an attorney, the department or independent agency
4 may do so only in the following ways:

5 (a) Employ an attorney in a position authorized under s. 16.505.

6 (b) Contract with the department of administration for legal services under s.
7 16.004 (15).

8 (c) Allow the department of justice to furnish legal services if the department
9 of justice is required by law to furnish the services.

10 (d) 1. Allow the division of hearings and appeals created under s. 15.103 (1) to
11 furnish legal services if the division of hearings and appeals is required or authorized
12 by law to furnish the services.

13 2. Contract under s. 227.43 (1m) for contested case hearing services with the
14 division of hearings and appeals if the department or independent agency is not
15 prohibited by law to do so.

16 (e) Employ or retain any attorney who is not a state employee, subject to s.
17 20.930.

18 **SECTION 2.** 15.103 (1g) of the statutes is created to read:

1 15.103 (1g) DIVISION OF LEGAL SERVICES. There is created in the department of
2 administration a division of legal services. The administrator of the division shall
3 be appointed by the secretary of administration in the unclassified service.

4 **SECTION 3.** 16.004 (15) of the statutes is created to read:

5 16.004 (15) LEGAL SERVICES. (a) In this subsection, "state agency" means an
6 office, commission, department, independent agency, or board in the executive
7 branch of state government, and includes the building commission.

8 (b) The department may provide legal services to state agencies. Annually, the
9 department shall assess each state agency for the cost of the legal services provided
10 to the state agency. The department shall credit all moneys received from state
11 agencies under this paragraph to the appropriation account under s. 20.505 (1) (kr).

12 **SECTION 4.** 20.505 (1) (kr) of the statutes is created to read:

13 20.505 (1) (kr) *Legal services.* All moneys received from assessments levied
14 against state agencies under s. 16.004 (15) (b) for legal services provided by the
15 department of administration to be used for providing those legal services.

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

16 **SECTION 5.** 73.01 (4) (b) of the statutes is amended to read:

17 73.01 (4) (b) Any matter required to be heard by the commission may be heard
18 by any member of the commission or ~~its~~ a hearing examiner and reported to the
19 commission, and hearings of matters pending before it shall be assigned to members
20 of the commission or ~~its~~ the hearing examiner by the chairperson. Cases other than
21 small claims cases shall be decided by the full commission, except that if one or more
22 members of the commission are unavailable, cases other than small claims cases
23 shall be decided by the member or members assigned by the chairperson prior to the

1 hearing. If the parties have agreed to an oral decision, the member or members
2 conducting the hearing may render an oral decision. Hearings shall be open to the
3 public and all proceedings shall be conducted in accordance with rules of practice and
4 procedure prescribed by the commission. Small claims cases shall be decided by one
5 commissioner assigned by the chairperson prior to the hearing.

6 **SECTION 6.** 73.01 (4m) (b) of the statutes is amended to read:

7 73.01 (4m) (b) No member of the commission, including the chairperson, or its
8 a hearing examiner may receive any salary unless he or she first executes an
9 affidavit at the end of each salary period stating that he or she has complied with the
10 deadlines in par. (a). The affidavit shall be presented to and filed with every official
11 who certifies, in whole or in part, the salary.

12 **SECTION 7.** 73.01 (4m) (c) of the statutes is amended to read:

13 73.01 (4m) (c) If a member of the commission, including the chairperson, or its
14 a hearing examiner is unable to comply with the deadline under par. (a), that person
15 shall so certify in the record, and the period is then extended for one additional period
16 not to exceed 90 days.

17 **SECTION 8.** 85.013 (2) (a) of the statutes is amended to read:

18 85.013 (2) (a) The secretary shall designate ~~employees of the department as~~
19 hearing examiners to preside over all hearings arising under ch. 344.

20 **SECTION 9.** 230.08 (2) (e) 1. of the statutes is amended to read:

21 230.08 (2) (e) 1. Administration — ~~13~~ 14.

22 **SECTION 10.** 230.08 (2) (eg) of the statutes is created to read:

23 230.08 (2) (eg) A general counsel position in each of the following agencies:

24 1. Department of administration.

25 2. Department of agriculture, trade and consumer protection.

- 1 2m. Department of children and families.
- 2 3. Department of commerce.
- 3 4. Department of corrections.
- 4 5. Department of financial institutions.
- 5 6. Department of health and family services.
- 6 7. Department of natural resources.
- 7 8. Department of regulation and licensing.
- 8 9. Department of revenue.
- 9 10. Department of transportation.
- 10 11. Department of workforce development.
- 11 12. Office of the commissioner of insurance.

****NOTE: This is reconciled s. 230.08 (2) (eg), which has been affected by LRB-1182/P2 and -1261.

12 **SECTION 11.** 343.33 (2) of the statutes is amended to read:

13 343.33 (2) Upon the hearing, the department or its a hearing examiner may
14 administer oaths, issue subpoenas for the attendance of witnesses and the
15 production of relevant books and papers and may require a reexamination of the
16 licensee. No law enforcement officer or other witness produced by the person who
17 has requested a hearing to testify on his or her behalf shall be paid a witness fee by
18 the department nor shall any law enforcement officer called to appear for the
19 department be paid any witness fee. All testimony shall be taken and transcribed.

20 **SECTION 9155. Nonstatutory provisions; Other.**

21 (1) TRANSFER OF ATTORNEY AND LEGAL STAFF POSITIONS.

22 (a) *Definitions.* In this subsection:

1 1. "Legal staff" means the individuals as determined by the secretary of
2 administration who provide support services for attorneys.

3 2. "State agency" means an office, commission, department, independent
4 agency, or board in the executive branch of state government, except the following:

- 5 a. The public service commission.
- 6 b. The public defender board.
- 7 c. The Board of Regents of the University of Wisconsin System.
- 8 d. The University of Wisconsin Hospitals and Clinics Board.
- 9 e. The state of Wisconsin investment board.

10 f. The office of the governor.

11 ~~g. The elections board.~~

12 ~~h. The ethics board.~~

13 i. The department of justice.

14 j. The employment relations commission.

15 (b) *State agency attorneys and legal staff.* Except as provided in paragraph (c)
16 and subject to paragraph (d), on the effective date of this paragraph all attorney
17 positions in state agencies and all legal staff positions in state agencies are
18 transferred to the division of legal services in the department of administration.

19 (c) *Hearing officers, hearing examiners, and administrative law judges.*

20 1. Except as provided in subdivision 2. and subject to paragraph (d), on the
21 effective date of this subdivision all positions identified by the secretary of
22 administration as hearing officers, hearing examiners, or administrative law judges
23 are transferred to the division of hearings and appeals in the department of
24 administration.

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The government accountability board.

1 2. Subdivision 1. does not apply to hearing officers, hearing examiners, or
2 administrative law judges in the department of workforce development.

3 (d) *Exceptions.* Paragraphs (b) and (c) do not apply to any of the following:

4 1. State employees working in an office of a district attorney under section
5 978.12 (1) (b) or (c) of the statutes.

6 2. One lead attorney in the office of state employment relations whose duties
7 include the negotiation and interpretation of collective bargaining agreements
8 entered into under subchapter V of chapter 111.

9 3. One attorney position in each of the following state agencies, identified by
10 the secretary of administration as the general counsel or lead attorney position:

11 a. Department of administration.

12 b. Department of agriculture, trade and consumer protection.

13 bm. Department of children and families.

14 c. Department of commerce.

15 d. Department of corrections.

16 e. Department of employee trust funds.

17 f. Department of financial institutions.

18 g. Department of health and family services.

19 h. Department of military affairs.

20 i. Department of natural resources.

21 j. Department of public instruction.

22 k. Department of regulation and licensing.

23 l. Department of revenue.

24 m. Department of transportation.

25 n. Department of veterans affairs.

1 o. Department of workforce development.

2 p. Office of the commissioner of insurance.

3 (e) *Incumbents.* All incumbent employees holding positions that are
4 transferred under paragraphs (b), and (c) are transferred on the effective date of this
5 paragraph to the department of administration. Employees transferred under these
6 paragraphs have all the rights and the same status under subchapter V of chapter
7 111 and chapter 230 of the statutes in the department of administration that they
8 enjoyed in their respective state agencies immediately before the transfer.
9 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
10 has attained permanent status in class is required to serve a probationary period.

11 (f) *Materials.* On the effective date of this paragraph, all equipment, supplies,
12 and furniture required for the provision of legal services by employees transferred
13 under paragraphs (b) and (c) are transferred to the department of administration.
14 The secretary of administration shall identify the equipment, supplies, and
15 furniture to be transferred.

16 **SECTION 9455. Effective dates; Other.**

17 (1) TRANSFER OF ATTORNEY POSITIONS. The treatment of sections 15.04 (4), 15.103
18 (1g), 16.004 (15), 20.505 (1) (kr), 73.01 (4) (b) and (4m) (b) and (c), 85.013 (2) (a),
19 230.08 (2) (e) 1. and (eg), and 343.33 (2) of the statutes and SECTION 9155 (1) of this
20 act take effect on July 1, 2008.

21 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1182/P3dn
CMH:kjf:rs

January 31, 2007

This draft reconciles LRB-1182/P2 and -1261 by adding the Department of Children and Families to s. 230.08 (2) (eg) and to SECTION 9155 (1) (d) 3.

Cathlene Hanaman
Legislative Attorney
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.wisconsin.gov

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This draft also makes changes to account for
2007 Wisconsin Act 1.

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

LRB-1182/P4dn
CMH:kjf:jf

February 6, 2007

This draft reconciles LRB-1182/P2 and -1261 by adding the Department of Children and Families to s. 230.08 (2) (eg) and to SECTION 9155 (1) (d) 3.

This draft also makes changes to account for 2007 Wisconsin Act 1.

Cathlene Hanaman
Legislative Attorney
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1182/P4
CMH&RAC:kjf:jf

PJ

d-note

STWS

DOA:.....Pawasarat, BB0250 - Attorney consolidation and transfer to DOA
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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LRS: PLS V.A.R.

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

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

This bill creates a division of legal services in DOA that is authorized to provide legal services to executive branch agencies. With certain exceptions, this bill transfers all attorney positions and all legal staff positions in executive branch agencies to the Division of Legal Services effective on July 1, 2008. This bill also transfers all positions identified as hearing examiners, hearing officers, or administrative law judges, other than such positions in DWD, to the Division of Hearings and Appeals in DOA. Attorney positions in DOJ, the Office of the State Public Defender, the PSC, the UW System, the Employment Relations Commission, the State of Wisconsin Investment Board, the Government Accountability Board, and the Office of the Governor are exempt, as are all state employees working in an office of a district attorney. In addition, the bill retains a general counsel or lead attorney position in each of 18 major state agencies and offices.

Under this bill, executive branch agencies that are authorized or required to employ or retain an attorney may do so only in the following ways: (1) employ an attorney in a position authorized by law; (2) contract with DOA for legal services; (3) allow DOJ to furnish legal services if DOJ is required by law to furnish the services; (4) allow or contract with the Division of Hearings and Appeals to furnish legal services if the Division of Hearings and Appeals is required or authorized by law to

furnish the services; or (5) employ or retain any attorney who is not a state employee, subject to the approval of the governor.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.04 (4) of the statutes is created to read:

2 15.04 (4) **LEGAL SERVICES.** If a department or independent agency is authorized
3 or required to employ or retain an attorney, the department or independent agency
4 may do so only in the following ways:

5 (a) Employ an attorney in a position authorized under s. 16.505.

6 (b) Contract with the department of administration for legal services under s.
7 16.004 (15).

8 (c) Allow the department of justice to furnish legal services if the department
9 of justice is required by law to furnish the services.

10 (d) 1. Allow the division of hearings and appeals created under s. 15.103 (1) to
11 furnish legal services if the division of hearings and appeals is required or authorized
12 by law to furnish the services.

13 2. Contract under s. 227.43 (1m) for contested case hearing services with the
14 division of hearings and appeals if the department or independent agency is not
15 prohibited by law to do so.

16 (e) Employ or retain any attorney who is not a state employee, subject to s.
17 20.930.

18 **SECTION 2.** 15.103 (1g) of the statutes is created to read:

1 15.103 **(1g)** DIVISION OF LEGAL SERVICES. There is created in the department of
2 administration a division of legal services. The administrator of the division shall
3 be appointed by the secretary of administration in the unclassified service.

4 **SECTION 3.** 16.004 (15) of the statutes is created to read:

5 16.004 **(15)** LEGAL SERVICES. (a) In this subsection, "state agency" means an
6 office, commission, department, independent agency, or board in the executive
7 branch of state government, and includes the building commission.

8 (b) The department may provide legal services to state agencies. Annually, the
9 department shall assess each state agency for the cost of the legal services provided
10 to the state agency. The department shall credit all moneys received from state
11 agencies under this paragraph to the appropriation account under s. 20.505 (1) (kr).

12 **SECTION 4.** 20.505 (1) (kr) of the statutes is created to read:

13 20.505 **(1)** (kr) *Legal services.* All moneys received from assessments levied
14 against state agencies under s. 16.004 (15) (b) for legal services provided by the
15 department of administration to be used for providing those legal services.

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

16 **SECTION 5.** 73.01 (4) (b) of the statutes is amended to read:

17 73.01 **(4)** (b) Any matter required to be heard by the commission may be heard
18 by any member of the commission or ~~its~~ a hearing examiner and reported to the
19 commission, and hearings of matters pending before it shall be assigned to members
20 of the commission or ~~its~~ the hearing examiner by the chairperson. Cases other than
21 small claims cases shall be decided by the full commission, except that if one or more
22 members of the commission are unavailable, cases other than small claims cases
23 shall be decided by the member or members assigned by the chairperson prior to the

1 hearing. If the parties have agreed to an oral decision, the member or members
2 conducting the hearing may render an oral decision. Hearings shall be open to the
3 public and all proceedings shall be conducted in accordance with rules of practice and
4 procedure prescribed by the commission. Small claims cases shall be decided by one
5 commissioner assigned by the chairperson prior to the hearing.

6 **SECTION 6.** 73.01 (4m) (b) of the statutes is amended to read:

7 73.01 (4m) (b) No member of the commission, including the chairperson, or its
8 a hearing examiner may receive any salary unless he or she first executes an
9 affidavit at the end of each salary period stating that he or she has complied with the
10 deadlines in par. (a). The affidavit shall be presented to and filed with every official
11 who certifies, in whole or in part, the salary.

12 **SECTION 7.** 73.01 (4m) (c) of the statutes is amended to read:

13 73.01 (4m) (c) If a member of the commission, including the chairperson, or its
14 a hearing examiner is unable to comply with the deadline under par. (a), that person
15 shall so certify in the record, and the period is then extended for one additional period
16 not to exceed 90 days.

17 **SECTION 8.** 85.013 (2) (a) of the statutes is amended to read:

18 85.013 (2) (a) The secretary shall designate ~~employees of the department as~~
19 hearing examiners to preside over all hearings arising under ch. 344.

20 **SECTION 9.** 230.08 (2) (e) 1. of the statutes is amended to read:

21 230.08 (2) (e) 1. Administration — ~~13~~ 14.

22 **SECTION 10.** 230.08 (2) (eg) of the statutes is created to read:

23 230.08 (2) (eg) A general counsel position in each of the following agencies:

- 24 1. Department of administration.
25 2. Department of agriculture, trade and consumer protection.

- 1 2m. Department of children and families.
- 2 3. Department of commerce.
- 3 4. Department of corrections.
- 4 5. Department of financial institutions.
- 5 6. Department of health and family services.
- 6 7. Department of natural resources.
- 7 8. Department of regulation and licensing.
- 8 9. Department of revenue.
- 9 10. Department of transportation.
- 10 11. Department of workforce development.
- 11 12. Office of the commissioner of insurance.

****NOTE: This is reconciled s. 230.08 (2) (eg), which has been affected by LRB-1182/P2 and -1261.

12 **SECTION 11.** 343.33 (2) of the statutes is amended to read:

13 343.33 (2) Upon the hearing, the department or ~~its~~ a hearing examiner may
14 administer oaths, issue subpoenas for the attendance of witnesses and the
15 production of relevant books and papers and may require a reexamination of the
16 licensee. No law enforcement officer or other witness produced by the person who
17 has requested a hearing to testify on his or her behalf shall be paid a witness fee by
18 the department nor shall any law enforcement officer called to appear for the
19 department be paid any witness fee. All testimony shall be taken and transcribed.

20 **SECTION 9155. Nonstatutory provisions; Other.**

21 (1) TRANSFER OF ATTORNEY AND LEGAL STAFF POSITIONS.

22 (a) *Definitions.* In this subsection:

1 1. "Legal staff" means the individuals as determined by the secretary of
2 administration who provide support services for attorneys.

3 2. "State agency" means an office, commission, department, independent
4 agency, or board in the executive branch of state government, except the following:

- 5 a. The public service commission.
6 b. The public defender board.
7 c. The Board of Regents of the University of Wisconsin System.
8 d. The University of Wisconsin Hospitals and Clinics Board.
9 e. The state of Wisconsin investment board.
10 f. The office of the governor.
11 g. The government accountability board.
12 h. The department of justice.
13 i. The employment relations commission.

14 (b) *State agency attorneys and legal staff.* Except as provided in paragraph (c)
15 and subject to paragraph (d), on the effective date of this paragraph all attorney
16 positions in state agencies and all legal staff positions in state agencies are
17 transferred to the division of legal services in the department of administration.

18 (c) *Hearing officers, hearing examiners, and administrative law judges.*

19 1. Except as provided in subdivision 2. and subject to paragraph (d), on the
20 effective date of this subdivision all positions identified by the secretary of
21 administration as hearing officers, hearing examiners, or administrative law judges
22 are transferred to the division of hearings and appeals in the department of
23 administration.

24 2. Subdivision 1. does not apply to hearing officers, hearing examiners, or
25 administrative law judges in the department of workforce development.

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1 (d) *Exceptions*. Paragraphs (b) and (c) do not apply to any of the following:

2 1. State employees working in an office of a district attorney under section
3 978.12 (1) (b) or (c) of the statutes.

4 2. One lead attorney in the office of state employment relations whose duties
5 include the negotiation and interpretation of collective bargaining agreements
6 entered into under subchapter V of chapter 111 *of the statutes*

7 3. One attorney position in each of the following state agencies, identified by
8 the secretary of administration as the general counsel or lead attorney position:

9 a. Department of administration.

10 b. Department of agriculture, trade and consumer protection.

11 *Autonomous* c. ~~bm.~~ Department of children and families.

12 *d* e. Department of commerce.

13 *e* d. Department of corrections.

14 *f* e. Department of employee trust funds.

15 *g* f. Department of financial institutions.

16 *h* g. Department of health and family services.

17 *i* h. Department of military affairs.

18 *j* i. Department of natural resources.

19 *k* j. Department of public instruction.

20 *l* k. Department of regulation and licensing.

21 *m* l. Department of revenue.

22 *n* m. Department of transportation.

23 *o* n. Department of veterans affairs.

24 *p* o. Department of workforce development.

25 *q* p. Office of the commissioner of insurance.

1 (e) *Incumbents.* All incumbent employees holding positions that are
 2 transferred under paragraphs (b), and (c) are transferred on the effective date of this
 3 paragraph to the department of administration. Employees transferred under these
 4 paragraphs have all the rights and the same status under subchapter V of chapter
 5 111 and chapter 230 of the statutes in the department of administration that they
 6 enjoyed in their respective state agencies immediately before the transfer.
 7 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
 8 has attained permanent status in class is required to serve a probationary period.

9 (f) *Materials.* On the effective date of this paragraph, all equipment, supplies,
 10 and furniture required for the provision of legal services by employees transferred
 11 under paragraphs (b) and (c) are transferred to the department of administration.
 12 The secretary of administration shall identify the equipment, supplies, and
 13 furniture to be transferred.

14 **SECTION 9455. Effective dates; Other.**

15 (1) TRANSFER OF ATTORNEY POSITIONS. The treatment of sections 15.04 (4), 15.103
 16 (1g), 16.004 (15), 20.505 (1) (kr), 73.01 (4) (b) and (4m) (b) and (c), 85.013 (2) (a),
 17 230.08 (2) (e) 1. and (eg), and 343.33 (2) of the statutes and SECTION 9155 (1) of this
 18 act take effect on July 1, 2008.

19 (END)

(date) 11/82/P5
 CMH:lmk.
 Jane
 This redraft makes a technical change
 CMH

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

LRB-1182/P5dn
CMH:kjf:rs

February 6, 2007

Jane:

This redraft makes a technical change.

Cathlene Hanaman
Legislative Attorney
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1182/P5
CMH&RAC:kjfrs

DOA:.....Pawasarat, BB0250 - Attorney consolidation and transfer to DOA
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

This bill creates a division of legal services in DOA that is authorized to provide legal services to executive branch agencies. With certain exceptions, this bill transfers all attorney positions and all legal staff positions in executive branch agencies to the Division of Legal Services effective on July 1, 2008. This bill also transfers all positions identified as hearing examiners, hearing officers, or administrative law judges, other than such positions in DWD, to the Division of Hearings and Appeals in DOA. Attorney positions in DOJ, the Office of the State Public Defender, the PSC, the UW System, the Employment Relations Commission, the State of Wisconsin Investment Board, the Government Accountability Board, and the Office of the Governor are exempt, as are all state employees working in an office of a district attorney. In addition, the bill retains a general counsel or lead attorney position in each of 18 major state agencies and offices.

Under this bill, executive branch agencies that are authorized or required to employ or retain an attorney may do so only in the following ways: (1) employ an attorney in a position authorized by law; (2) contract with DOA for legal services; (3) allow DOJ to furnish legal services if DOJ is required by law to furnish the services; (4) allow or contract with the Division of Hearings and Appeals to furnish legal services if the Division of Hearings and Appeals is required or authorized by law to

furnish the services; or (5) employ or retain any attorney who is not a state employee, subject to the approval of the governor.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.04 (4) of the statutes is created to read:

2 15.04 (4) **LEGAL SERVICES.** If a department or independent agency is authorized
3 or required to employ or retain an attorney, the department or independent agency
4 may do so only in the following ways:

5 (a) Employ an attorney in a position authorized under s. 16.505.

6 (b) Contract with the department of administration for legal services under s.
7 16.004 (15).

8 (c) Allow the department of justice to furnish legal services if the department
9 of justice is required by law to furnish the services.

10 (d) 1. Allow the division of hearings and appeals created under s. 15.103 (1) to
11 furnish legal services if the division of hearings and appeals is required or authorized
12 by law to furnish the services.

13 2. Contract under s. 227.43 (1m) for contested case hearing services with the
14 division of hearings and appeals if the department or independent agency is not
15 prohibited by law to do so.

16 (e) Employ or retain any attorney who is not a state employee, subject to s.
17 20.930.

18 **SECTION 2.** 15.103 (1g) of the statutes is created to read:

1 15.103 (1g) DIVISION OF LEGAL SERVICES. There is created in the department of
2 administration a division of legal services. The administrator of the division shall
3 be appointed by the secretary of administration in the unclassified service.

4 **SECTION 3.** 16.004 (15) of the statutes is created to read:

5 16.004 (15) LEGAL SERVICES. (a) In this subsection, "state agency" means an
6 office, commission, department, independent agency, or board in the executive
7 branch of state government, and includes the building commission.

8 (b) The department may provide legal services to state agencies. Annually, the
9 department shall assess each state agency for the cost of the legal services provided
10 to the state agency. The department shall credit all moneys received from state
11 agencies under this paragraph to the appropriation account under s. 20.505 (1) (kr).

12 **SECTION 4.** 20.505 (1) (kr) of the statutes is created to read:

13 20.505 (1) (kr) *Legal services.* All moneys received from assessments levied
14 against state agencies under s. 16.004 (15) (b) for legal services provided by the
15 department of administration to be used for providing those legal services.

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

16 **SECTION 5.** 73.01 (4) (b) of the statutes is amended to read:

17 73.01 (4) (b) Any matter required to be heard by the commission may be heard
18 by any member of the commission or ~~its~~ a hearing examiner and reported to the
19 commission, and hearings of matters pending before it shall be assigned to members
20 of the commission or ~~its~~ the hearing examiner by the chairperson. Cases other than
21 small claims cases shall be decided by the full commission, except that if one or more
22 members of the commission are unavailable, cases other than small claims cases
23 shall be decided by the member or members assigned by the chairperson prior to the

SECTION 5

1 hearing. If the parties have agreed to an oral decision, the member or members
2 conducting the hearing may render an oral decision. Hearings shall be open to the
3 public and all proceedings shall be conducted in accordance with rules of practice and
4 procedure prescribed by the commission. Small claims cases shall be decided by one
5 commissioner assigned by the chairperson prior to the hearing.

6 **SECTION 6.** 73.01 (4m) (b) of the statutes is amended to read:

7 73.01 (4m) (b) No member of the commission, including the chairperson, or its
8 a hearing examiner may receive any salary unless he or she first executes an
9 affidavit at the end of each salary period stating that he or she has complied with the
10 deadlines in par. (a). The affidavit shall be presented to and filed with every official
11 who certifies, in whole or in part, the salary.

12 **SECTION 7.** 73.01 (4m) (c) of the statutes is amended to read:

13 73.01 (4m) (c) If a member of the commission, including the chairperson, or its
14 a hearing examiner is unable to comply with the deadline under par. (a), that person
15 shall so certify in the record, and the period is then extended for one additional period
16 not to exceed 90 days.

17 **SECTION 8.** 85.013 (2) (a) of the statutes is amended to read:

18 85.013 (2) (a) The secretary shall designate ~~employees of the department as~~
19 hearing examiners to preside over all hearings arising under ch. 344.

20 **SECTION 9.** 230.08 (2) (e) 1. of the statutes is amended to read:

21 230.08 (2) (e) 1. Administration — ~~13~~ 14.

22 **SECTION 10.** 230.08 (2) (eg) of the statutes is created to read:

23 230.08 (2) (eg) A general counsel position in each of the following agencies:

24 1. Department of administration.

25 2. Department of agriculture, trade and consumer protection.

- 1 2m. Department of children and families.
- 2 3. Department of commerce.
- 3 4. Department of corrections.
- 4 5. Department of financial institutions.
- 5 6. Department of health and family services.
- 6 7. Department of natural resources.
- 7 8. Department of regulation and licensing.
- 8 9. Department of revenue.
- 9 10. Department of transportation.
- 10 11. Department of workforce development.
- 11 12. Office of the commissioner of insurance.

****NOTE: This is reconciled s. 230.08 (2) (eg), which has been affected by LRB-1182/P2 and -1261.

12 **SECTION 11.** 343.33 (2) of the statutes is amended to read:

13 343.33 (2) Upon the hearing, the department or its a hearing examiner may
14 administer oaths, issue subpoenas for the attendance of witnesses and the
15 production of relevant books and papers and may require a reexamination of the
16 licensee. No law enforcement officer or other witness produced by the person who
17 has requested a hearing to testify on his or her behalf shall be paid a witness fee by
18 the department nor shall any law enforcement officer called to appear for the
19 department be paid any witness fee. All testimony shall be taken and transcribed.

20 **SECTION 9155. Nonstatutory provisions; Other.**

21 (1) TRANSFER OF ATTORNEY AND LEGAL STAFF POSITIONS.

22 (a) *Definitions.* In this subsection:

1 1. "Legal staff" means the individuals as determined by the secretary of
2 administration who provide support services for attorneys.

3 2. "State agency" means an office, commission, department, independent
4 agency, or board in the executive branch of state government, except the following:

5 a. The public service commission.

6 b. The public defender board.

7 c. The Board of Regents of the University of Wisconsin System.

8 d. The University of Wisconsin Hospitals and Clinics Board.

9 e. The state of Wisconsin investment board.

10 f. The office of the governor.

11 g. The government accountability board.

12 h. The department of justice.

13 i. The employment relations commission.

14 (b) *State agency attorneys and legal staff.* Except as provided in paragraph (c)
15 and subject to paragraph (d), on the effective date of this paragraph all attorney
16 positions in state agencies and all legal staff positions in state agencies are
17 transferred to the division of legal services in the department of administration.

18 (c) *Hearing officers, hearing examiners, and administrative law judges.*

19 1. Except as provided in subdivision 2. and subject to paragraph (d), on the
20 effective date of this subdivision all positions identified by the secretary of
21 administration as hearing officers, hearing examiners, or administrative law judges
22 are transferred to the division of hearings and appeals in the department of
23 administration.

24 2. Subdivision 1. does not apply to hearing officers, hearing examiners, or
25 administrative law judges in the department of workforce development.

1 (d) *Exceptions*. Paragraphs (b) and (c) do not apply to any of the following:

2 1. State employees working in an office of a district attorney under section
3 978.12 (1) (b) or (c) of the statutes.

4 2. One lead attorney in the office of state employment relations whose duties
5 include the negotiation and interpretation of collective bargaining agreements
6 entered into under subchapter V of chapter 111 of the statutes.

7 3. One attorney position in each of the following state agencies, identified by
8 the secretary of administration as the general counsel or lead attorney position:

9 a. Department of administration.

10 b. Department of agriculture, trade and consumer protection.

11 c. Department of children and families.

12 d. Department of commerce.

13 e. Department of corrections.

14 f. Department of employee trust funds.

15 g. Department of financial institutions.

16 h. Department of health and family services.

17 i. Department of military affairs.

18 j. Department of natural resources.

19 k. Department of public instruction.

20 l. Department of regulation and licensing.

21 m. Department of revenue.

22 n. Department of transportation.

23 o. Department of veterans affairs.

24 p. Department of workforce development.

25 q. Office of the commissioner of insurance.

1 (e) *Incumbents.* All incumbent employees holding positions that are
2 transferred under paragraphs (b), and (c) are transferred on the effective date of this
3 paragraph to the department of administration. Employees transferred under these
4 paragraphs have all the rights and the same status under subchapter V of chapter
5 111 and chapter 230 of the statutes in the department of administration that they
6 enjoyed in their respective state agencies immediately before the transfer.
7 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
8 has attained permanent status in class is required to serve a probationary period.

9 (f) *Materials.* On the effective date of this paragraph, all equipment, supplies,
10 and furniture required for the provision of legal services by employees transferred
11 under paragraphs (b) and (c) are transferred to the department of administration.
12 The secretary of administration shall identify the equipment, supplies, and
13 furniture to be transferred.

14 **SECTION 9455. Effective dates; Other.**

15 (1) TRANSFER OF ATTORNEY POSITIONS. The treatment of sections 15.04 (4), 15.103
16 (1g), 16.004 (15), 20.505 (1) (kr), 73.01 (4) (b) and (4m) (b) and (c), 85.013 (2) (a),
17 230.08 (2) (e) 1. and (eg), and 343.33 (2) of the statutes and SECTION 9155 (1) of this
18 act take effect on July 1, 2008.

19 (END)