



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #272

Special Prosecution Clerks Fee Increase and Associated Operation Ceasefire Funding Conversion (District Attorneys)

[LFB 2003-05 Budget Summary: Page 134, #4 and Page 135, #5]

CURRENT LAW

A \$2 special prosecution clerks fee is assessed, in Milwaukee County only, whenever a person pays a fee for civil, small claims, forfeiture (except for safety belt use violations), wage earner or garnishment actions, or to file an appeal from municipal court, to file a third party complaint in a civil action or for filing a counterclaim or cross complaint in a small claims action. All moneys generated by the special prosecution clerks fee are credited to the District Attorneys PR-funded "other employees" appropriation. This appropriation reimburses Milwaukee County for the salary and fringe benefits of 4.5 clerks in the Milwaukee County District Attorney's office who serve prosecutors handling violent crime and felony drug violations in Milwaukee County's speedy drug and violent crime courts. The adjusted base for this appropriation is \$174,700 PR annually funded from the special prosecution clerks fee.

The District Attorneys' GPR-funded firearm prosecution costs appropriation provides reimbursement funding for 2.0 clerk positions in the Milwaukee County District Attorney's office for cases involving the unlawful possession or use of firearms. The adjusted base for this appropriation is \$78,300 GPR annually.

GOVERNOR

Full Funding for Milwaukee County Clerks Currently Funded From the Special Prosecution Clerks Fee. Provide \$16,200 PR in 2003-04 and \$18,200 PR in 2004-05 to fully fund the salary and fringe benefits costs of 4.5 clerks in the Milwaukee County District Attorney's office who provide clerical services to prosecutors handling violent crime and felony drug violations in Milwaukee County's speedy drug and violent crime courts.

Special Prosecution Clerks Fee Increase. Increase the special prosecution clerks fee from \$2 to \$3.50 first applicable to pleadings filed on the effective date of the bill. The Governor estimates that this fee increase would generate additional program revenues of \$89,100 in 2003-04 and \$87,100 in 2004-05. [Under the bill, these increased special prosecution clerks fee revenues are incorrectly budgeted as GPR-Earned.]

Operation Ceasefire Funding Conversion. Delete \$78,300 GPR annually and provide \$81,100 PR in 2003-04 and \$83,500 PR in 2004-05 to reflect the funding conversion of local assistance payments to the Milwaukee County District Attorney's office for the costs of 2.0 existing clerk positions for cases involving the unlawful possession or use of firearms ("Operation Ceasefire"). Under s. 978.13(1)(d) of the statutes, the state is required to fund the costs of these positions with GPR funds. This funding requirement is not modified under the Governor's recommendation.

The increased PR expenditure authority would be provided under the District Attorneys' interagency and intra-agency assistance appropriation. Funds credited to this appropriation derive from payments received from other state agencies for the administration of specific programs.

DISCUSSION POINTS

1. Under 1999 Wisconsin Act 9 (the 1999-01 biennial budget act), the Legislature provided resources for an Operation Ceasefire initiative in Milwaukee County to prosecute, in federal court, persons who illegally possess or illegally use weapons. As a part of this effort, the state provided funding for: (a) 6.0 FTE assistant district attorneys (ADAs) and 2.0 FTE clerk typists; (b) computers for all eight positions; and (c) a media campaign to educate the public on the consequences of and deter individuals from illegal gun use. While the state has ceased to provide funding for the media campaign, it continues to provide funding for the initiative through its support of the 6.0 ADA positions and the 2.0 clerk typist positions. The cost of the clerk typist positions are reimbursed to Milwaukee County from the GPR-funded firearm prosecution costs appropriation.

2. Under SB 44, GPR funding from the firearm prosecution costs appropriation would be eliminated. However, the Governor intended to provide ongoing funding for the 2.0 Operation Ceasefire clerk positions by increasing the special prosecution clerks fee. Special prosecution clerks fee revenue is credited to the "other employees" appropriation, but the increased expenditure authority provided by the Governor for these positions was added incorrectly to the "interagency and intra-agency assistance" appropriation. A technical correction is needed to reflect the intended transfer of the cost of these positions to the special prosecution clerks fee.

3. Currently, the statutory purpose of the "other employees" appropriation, supported by special prosecution clerks fee revenue, does not permit its use to fund the 2.0 Operation Ceasefire clerks. In addition, current law requires that these clerks be supported from the GPR funded firearm prosecution costs appropriation. As a result, technical corrections are necessary to

implement the Governor's intent to permit these clerk positions to be funded from the "other employees" appropriation.

4. Under the Governor's recommendations, the special prosecution clerks fee would be increased from \$2 to \$3.50 to support the cost of the funding conversion of the Operation Ceasefire clerks. Under the bill, it is estimated that the increased fee would generate additional revenues of \$89,100 in 2003-04 and \$87,100 in 2004-05.

5. These increased revenues have been budgeted as GPR-Earned, rather than as program revenue. Consequently, a technical correction to the budget is required to accurately reflect these additional fee amounts as program revenue. The fiscal impact of this required technical correction is to reduce GPR-Earned estimates in the bill by \$89,100 in 2003-04 and \$87,100 in 2004-05, and to provide corresponding program revenue increases in each fiscal year.

6. Based upon updated projections, it is now estimated that the proposed \$1.50 increase would yield \$110,100 in 2003-04 and \$146,800 in 2004-05. This revised estimate represents a revenue increase of \$21,000 in 2003-04 and \$59,700 in 2004-05. [Since these additional revenues are not reflected in the bill as GPR-Earned, there is no adverse impact on the general fund associated with this updated estimate.]

7. Special prosecution clerks fee revenue is credited to the "other employees" appropriation and, under SB 44, as technically corrected, the Operation Ceasefire clerks would be funded from this appropriation. It is estimated that this appropriation will end the 2002-03 fiscal year with a closing balance of \$185,900 PR. Given this balance the Operation Ceasefire clerks could be funded from this appropriation during 2003-05 without the need to increase the special prosecution clerks fee. Under this alternative, it is estimated that the "other employees" appropriation would still end the 2003-05 biennium with a positive balance of \$28,900 PR.

8. While the Governor's recommended fee increase would not be needed to fund the clerk positions supported by the appropriation during 2003-05, the Committee could nonetheless provide the requested fee increase. Under this option, the increased revenues could be lapsed to the general fund to offset the adverse impact of the GPR-Earned technical adjustment due to reclassifying this revenue increase as PR. Under this alternative, the Committee could not only restore \$176,200 in GPR-Earned to SB 44, but increase total estimated GPR-Earned amounts under the bill by \$80,700 over the biennium.

ALTERNATIVES

1. Approve the Governor's recommendations, as technically corrected to: (a) increase the special prosecution clerks fee from \$2 to \$3.50; (b) provide \$16,200 PR in 2003-04 and \$18,200 PR in 2004-05 under the other employees appropriation to fully fund the salary and fringe benefits cost of 4.5 clerks in the Milwaukee County District Attorney's Office; (c) delete \$78,300 GPR annually from the firearm prosecution costs appropriation to reflect the funding conversion for 2.0 Operation Ceasefire clerks in the Milwaukee County District Attorney's Office; (d) provide \$81,100

PR in 2003-04 and \$83,500 PR in 2004-05 to the other employees appropriation to fully fund the 2.0 Operation Ceasefire clerks from special prosecution clerks fee revenue; (e) amend the other employees appropriation to permit these clerks to be funded from this appropriation; (f) delete the current law requirement that these clerks be funded from the firearm prosecution costs GPR appropriation; and (g) delete \$81,100 PR in 2003-04 and \$83,500 PR in 2004-05 of increased expenditure authority provided to the interagency and intra-agency assistance appropriation to fund these clerks. In addition, include a technical correction reducing GPR-Earned collections under District Attorneys by \$89,100 in 2003-04 and \$87,100 in 2004-05 and providing corresponding PR-REV increases under District Attorneys.

<u>Alternative 1</u>	<u>GPR</u>	<u>PR</u>
2003-05 REVENUE (Change to Bill)	- \$176,200	\$176,200

2. Adopt Alternative 1, but delete the recommended fee increase to the special prosecution clerks fee.

<u>Alternative 2</u>	<u>GPR</u>
2003-05 REVENUE (Change to Bill)	- \$176,200

3. Adopt Alternative 1, and: (a) reestimate PR revenue from the increased special prosecution clerks fee by \$21,000 in 2003-04 and \$59,700 in 2004-05; and (b) lapse \$110,100 in 2003-04 and \$146,800 in 2004-05 to the general fund from increased special prosecution clerks fee appropriation balances.

<u>Alternative 3</u>	<u>GPR</u>	<u>PR</u>
2003-05 REVENUE (Change to Bill)	\$80,700	\$256,900

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