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Joint Committee on Finance

Paper #317

District Attorney Compensation (District Attorneys)

[LFB 2023-25 Budget Summary: Page 151, #5]

CURRENT LAW

There are 71 district attorneys in Wisconsin. Under Article VI, Section 4 of the Wisconsin Constitution, a district attorney (DA) is elected to a four-year term at the general election held in each presidential election year. Each county in the state is termed a "prosecutorial unit," except that Shawano and Menominee Counties form a two-county prosecutorial unit and jointly elect a single district attorney. Under current law, district attorneys are part-time positions in Buffalo (0.6), Florence (0.6), and Pepin (0.8) Counties, and are full-time in all other prosecutorial units.

Under current law, the salaries of DAs are established under the biennial state compensation plan, which is approved by the Joint Committee on Employment Relations (JCOER). The compensation plan must establish separate salary rates for DAs depending on the population size of each prosecutorial unit. The rate of office each DA is paid is the rate specified in the compensation plan in effect on second Tuesday of July proceeding the commencement of his or her term of office.

DISCUSSION POINTS

1. As elected officials, DA salaries cannot be adjusted during their term of office. The rate of office for DAs beginning terms in January, 2021, (elected in November, 2020) are shown in Table 1.

TABLE 1

District Attorney Incumbent Salaries

<u>Prosecutorial Unit Population</u>	<u>Salary</u>
More than 750,000	\$145,288
250,000 to 750,000	131,456
100,000 to 250,000	124,842
75,000 to 100,000	124,842
50,000 to 75,000	118,872
35,000 to 50,000	118,872
20,000 to 35,000	106,288
Not more than 20,000	106,288

2. The salaries for DAs starting with the new term in January, 2025 (elected in November, 2024), are yet to be determined in the 2023-25 compensation plan. The plan is expected to be introduced for JCOER approval in late 2023.

3. Under the 2021-23 state compensation plan, the minimum assistant DA and deputy DA salary is \$27.24 per hour (\$56,659 annually) and the maximum is \$65.76 per hour (\$136,781 annually). In addition to the maximum salary rate, deputy district attorneys may receive up to a \$2.75 per hour add-on (\$5,720 annually), based on merit, because of supervisory or managerial responsibilities.

4. If a DA resigns, the appointed replacement DA receives the salary of the prior DA to finish out the term. Currently there are 60.3 ADA and DDA positions (out of 386.4 positions) earning more than \$106,288 annually or \$51.10 hourly (the salary level currently established for prosecutorial units with a population of 35,000 or less). The annual salary for these individuals ranges from \$106,800 to \$142,500 including a \$2.75 per hour add-on (\$5,720 annually). Arguments have been made that being required to take a lower salary may discourage a long time ADA or DDA from pursuing election or appointment to the DA position.

5. Since the state compensation plan is approved on a biennial basis even though DA salaries only take effect once every four years, in December, 2021, JCOER approved the following salaries for DAs beginning January 1, 2023. These salaries will most likely be the starting point for determining the salaries that DAs will receive starting in January, 2025, under the 2023-25 compensation plan. [Note that the 2021-23 compensation plan collapsed the number of salary categories from five pay levels to three pay levels. It may be assumed that this structure will be applied in the 2023-25 compensation plan.]

TABLE 2

District Attorney Salaries

<u>Prosecutorial Unit Population</u>	<u>January 1, 2023 Rate for Office</u>
More than 750,000	\$145,288
250,000 to 750,000	139,527
100,000 to 250,000	139,527
75,000 to 100,000	139,527
50,000 to 75,000	126,173
35,000 to 50,000	126,173
20,000 to 35,000	126,173
Not more than 20,000	126,173

6. Given that the amount a DA would earn starting with the new term in January, 2025, as well as the maximum salaries of ADAs is not yet known, it is difficult to determine how many ADA and DDAs could be dissuaded from taking a DA position based on salary alone.

7. In order not to exacerbate the salary differentials between experienced ADAs/DDAs and the elected DAs, the bill would increase the hourly compensation of elected district attorneys by \$10.03 (\$7.76 per hour salary adjustment and \$2.27 per hour one step increase) (\$20,862 annually) beginning with the start of their new term (January, 2025) to match the proposed raises provided to ADAs and DDAs under the bill. A total of \$854,300 GPR in 2024-25 would be provided. This amount is based on 70 DA positions.

8. Given the potential benefits of not discouraging the attorney with the most experience to run for DA, the Committee could provide funding to the DA to support a salary adjustment. Funding could be provided in the manner recommended by the budget bill. [Alternative 1] This would result in DA salary adjustment funding by \$854,300 in 2024-25.

9. Funding for any potential salary increases are typically reserved as a portion of compensation reserves. Release of these funds is then approved by the Joint Committee on Finance based on actual budgetary need. Given that supplemental funding for the compensation plan comes from compensation reserves and that DA salaries for January, 2025, are unknown, \$854,300 in 2024-25 could be placed in compensation reserves. [Alternative 2] Note that since pay increases for ADAs/DDAs are statutorily provided through the appropriation of money directly to the agency, such money is not provided to compensation reserves. District Attorneys are not eligible for pay progression or increases during their term of office.

10. Since increases to DA salaries are set in the state compensation plan, which is approved by the Joint Committee on Employment Relations, the Committee could take no action during the budget process. [Alternative 3] In 2024-25, any necessary increase expenditures would need to be supported within the agency's budget. Full funding for the positions would be included as a standard

budget adjustment in the 2025-27 biennium.

ALTERNATIVES

1. Provide \$854,300 GPR in 2024-25 to increase the hourly compensation of elected district attorneys.

ALT 1	Change to Base
GPR	\$854,300

2. Place \$854,300 GPR in 2024-25 in compensation reserves for the potential increase in the hourly compensation of elected District Attorneys.

ALT 2	Change to Base
GPR	\$854,300

3. Take no action.

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