



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #380

Elimination of Special Prosecution Clerks Fee and Appropriation (District Attorneys)

[LFB 2001-03 Budget Summary: Page 237, #2]

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 deposited in the District Attorneys' other employees program revenue 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.

GOVERNOR

Make the following changes: (a) delete \$174,700 PR annually and the other employees appropriation that provides reimbursement to the Milwaukee County District Attorney's office for clerks who serve prosecutors handling violent crimes and felony drug violations in Milwaukee County's speedy drug and violent crime courts; and (b) eliminate the \$2 special prosecution clerks fee, to first apply to cases filed on the effective date of the bill.

DISCUSSION POINTS

1. Currently, revenues generated by the \$2 special prosecution clerks fee are collected by the Milwaukee County Clerk of Court and then forwarded to the State Treasurer for deposit in the District Attorneys' other employees appropriation. Every six months the Department of Administration (DOA) reimburses the Milwaukee County District Attorney's office from the

District Attorneys' other employees appropriation for either the period of January through June (payments made in July) or July through December (payments made in January) for the salary and fringe benefits associated with the 4.5 clerk positions.

2. The executive budget book indicates that the intent of the Governor's provisions concerning the special prosecution clerks fee and appropriation was not to eliminate the fee, but rather to eliminate this reimbursement arrangement and instead allow Milwaukee County to directly retain the revenue from the special prosecution clerks fee. The bill, however, deletes the special prosecution clerks fee and related appropriation. Under current law, upon the deletion of this appropriation, the appropriation's unencumbered balance, reestimated to be \$149,400 on June 30, 2001, would lapse to the general fund.

3. Some might argue that to the extent that court fees serve as a barrier to the courtroom, elimination of the fee would reduce the barrier. However, elimination of the fee would leave unfunded 4.5 clerk positions who serve prosecutors handling violent crime and felony drug violations in Milwaukee County's speedy drug and violent crime courts.

4. Transferring retention of fee revenue to Milwaukee County and eliminating state reimbursement could be seen as a less cumbersome and more direct approach to funding the special clerks. However, the timing of the transfer could impact state and Milwaukee County revenues.

5. Under the bill, funding for state reimbursement to Milwaukee County would be eliminated beginning in 2001-02, the District Attorneys' other employees appropriation would be repealed upon the effective date of the bill, and the special prosecution clerks fee would be eliminated beginning with cases filed on the effective date of the bill. Since January through June costs are reimbursed in July and July through December costs reimbursed in January, the effect of the bill would be to retroactively eliminate reimbursement to Milwaukee County, effective January 1, 2001. In a letter to the Co-Chairs dated March 21, 2001, the State Budget Director indicated that this was not the Governor's intent and requested that the budget bill be modified to delay the effective date for repealing the state-administered special prosecution clerk fee to allow time for a smooth transition of the fee as a county-administered program.

6. In order to have the transfer of costs to Milwaukee County coincide with the receipt of revenues, the following alternative could be considered: (a) provide \$174,700 PR in 2001-02 to allow for reimbursement to Milwaukee County for calendar year 2001 costs; (b) repeal the District Attorneys' other employees appropriation, effective June, 30, 2002; and (c) do not eliminate the special prosecution clerks fee but instead provide that fee revenues be retained by Milwaukee County, beginning with cases filed on January 1, 2002. Under this alternative, Milwaukee County would begin receiving fee revenues on the same date that the costs of the 4.5 clerk positions would no longer be reimbursed by the state. It is estimated that under this alternative an unencumbered balance of \$72,000 would lapse to the general fund upon repeal of the appropriation on June 30, 2002.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to: (a) delete \$174,700 PR annually and repeal the District Attorneys' other employees appropriation that reimburses the Milwaukee County District Attorney's office for the salaries and fringe benefits of 4.5 special prosecution clerks; and (b) eliminate the \$2 special prosecution clerks fee that provides program revenue for the reimbursement, to first apply to cases filed on the effective date of the bill. It is estimated that \$149,400 would lapse to the general fund upon repeal of the program revenue appropriation.

Alternative 1	GPR	PR	PR-Lapse	TOTAL
2001-03 REVENUE (Change to Base)	\$149,400	- \$389,000	\$149,400	- \$389,000
<i>[Change to Bill]</i>	\$149,400	\$6,200	\$149,400	\$6,200]
2001-03 FUNDING (Change to Base)	\$0	- \$349,400	\$0	- \$349,400
<i>[Change to Bill]</i>	\$0	\$0	\$0	\$0]

2. Modify the Governor's recommendation as follows: (a) provide \$174,700 PR in 2001-02; (b) repeal the District Attorneys' other employees appropriation, effective June 30, 2002; and (c) provide that the \$2 special prosecution clerks fee will not be eliminated, but that revenue from the fee will be retained by Milwaukee County, for the costs of special clerks providing services to Milwaukee County prosecutors handling violent crime and felony drug violations, effective as of January 1, 2002, to first apply to cases filed on that date. Under this alternative, it is estimated that \$72,000 would lapse to the general fund upon repeal of the program revenue appropriation.

Alternative 2	GPR	PR	PR-Lapse	TOTAL
2001-03 REVENUE (Change to Base)	\$72,000	- \$291,800	\$72,000	- \$291,800
<i>[Change to Bill]</i>	\$72,000	\$103,400	\$72,000	\$103,400]
2001-03 FUNDING (Change to Base)	\$0	- \$174,700	\$0	- \$174,700
<i>[Change to Bill]</i>	\$0	\$174,700	\$0	\$174,700]

3. Maintain current law.

Alternative 3	PR
2001-03 REVENUE (Change to Base)	\$0
<i>[Change to Bill]</i>	\$395,200]
2001-03 FUNDING (Change to Base)	\$0
<i>[Change to Bill]</i>	\$349,400]

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