

165.055 Appointments.

(1) The attorney general may appoint a deputy attorney general and assistants each of whom shall be an attorney at law admitted to practice in this state. Such appointments shall be made in writing and filed in the office of the secretary of state, and such appointees shall take and subscribe the constitutional oath of office which shall also be filed. Appointees shall perform such duties as the attorney general prescribes.

(2) The attorney general shall be responsible for all acts of the deputy attorney general.

(4) The attorney general shall appoint, in the unclassified service, the administrator of the legal services division subject to s. [230.08 \(4\) \(a\)](#).

History: [1973 c. 90](#); [1975 c. 39](#); [1977 c. 29, 44, 418](#); [1987 a. 27](#); [1993 a. 482](#); [2001 a. 16](#); [2015 a. 55](#); [2017 a. 59, 369](#).

165.08 Power to compromise.

(1) Any civil action prosecuted by the department by direction of any officer, department, board, or commission, or any civil action prosecuted by the department on the initiative of the attorney general, or at the request of any individual may be compromised or discontinued with the approval of an intervenor under s. [803.09 \(2m\)](#) or, if there is no intervenor, by submission of a proposed plan to the joint committee on finance for the approval of the committee. The compromise or discontinuance may occur only if the joint committee on finance approves the proposed plan. No proposed plan may be submitted to the joint committee on finance if the plan concedes the unconstitutionality or other invalidity of a statute, facially or as applied, or concedes that a statute violates or is preempted by federal law, without the approval of the joint committee on legislative organization.

(2) In any criminal action prosecuted by the attorney general, the department shall have the same powers with reference to such action as are vested in district attorneys.

History: [2007 a. 20](#); [2015 a. 55](#); [2017 a. 369](#).

165.25 Duties of department of justice. The department of justice shall:

(1) REPRESENT STATE IN APPEALS AND ON REMAND. Except as provided in ss. [5.05 \(2m\) \(a\)](#), [19.49 \(2\) \(a\)](#), and [978.05 \(5\)](#), appear for the state and prosecute or defend all actions and proceedings, civil or criminal, in the court of appeals and the supreme court, in which the state is interested or a party, and attend to and prosecute or defend all civil cases sent or remanded to any circuit court in which the state is a party. The joint committee on legislative organization may intervene as permitted under s. [803.09 \(2m\)](#) at any time. Nothing in this subsection deprives or relieves the attorney general or the department of justice of any authority or duty under this chapter.

(1m) REPRESENT STATE IN OTHER MATTERS. If requested by the governor or either house of the legislature, appear for and represent the state, any state department, agency, official, employee or agent, whether required to appear as a party or witness in any civil or criminal matter, and prosecute or defend in any court or before any officer, any cause or matter, civil or criminal, in which the state or the people of this state may be interested. The joint committee on legislative organization may intervene as permitted under s. [803.09 \(2m\)](#) at any time. The public service commission may request under s. [196.497 \(7\)](#) that the attorney general intervene in federal proceedings. All expenses of the proceedings shall be paid from the appropriation under s. [20.455 \(1\) \(d\)](#).

(2) PROSECUTE BREACHES OF BONDS AND CONTRACTS. Prosecute, at the request of the governor, or of the head of any department of the state government any official bond or any contract in which the state is interested, deposited with any of them, upon a breach thereof, and prosecute or defend for the state all actions, civil or criminal, relating to any matter connected with any of their departments except in those cases where other provision is made.

(3) ADVISE DISTRICT ATTORNEYS. Consult and advise with the district attorneys when requested by them in all matters pertaining to the duties of their office.

(3m) REVIEW OBSCENITY CASES. Review obscenity cases submitted to the department by district attorneys under s. [944.21 \(7\)](#). The attorney general shall determine whether a prosecution may be commenced.

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

(4) FURNISH LEGAL SERVICES; APPROPRIATION.

(a) The department of justice shall furnish all legal services required by the investment board, the lottery division in the department of revenue, the public service commission, the department of transportation, the department of natural resources, the department of tourism and the department of employee trust funds, together with any other services, including stenographic and investigational, as are necessarily connected with the legal work.

(ag) The department of justice shall furnish legal services upon request of the department of safety and professional services under s. [167.35 \(7\)](#).

(am) The department of justice shall furnish legal services to the department of safety and professional services in all proceedings under s. [440.21 \(3\)](#), together with any other services, including stenographic and investigational, as are necessarily connected with the legal services.

(ar) The department of justice shall furnish all legal services required by the department of agriculture, trade and consumer protection relating to the enforcement of ss. [91.68](#), [93.73](#), [100.171](#), [100.173](#), [100.174](#), [100.175](#), [100.177](#), [100.18](#), [100.182](#), [100.195](#), [100.20](#), [100.205](#), [100.207](#), [100.209](#), [100.21](#), [100.28](#), [100.37](#), [100.42](#), [100.50](#), [100.51](#), [100.55](#), and [846.45](#) and chs. [126](#), [136](#), [344](#), [704](#), [707](#), and [779](#), together with any other services as are necessarily connected to the legal services.

(as) The department of justice shall furnish legal services to the livestock facility siting review board in defending appeals under s. [93.90 \(5\) \(e\)](#) of decisions of the board.

(b) The department of justice shall furnish bond counsel services to the building commission when the building commission contracts public debt under subch. [I of ch. 18](#).

(bn) The department of justice shall provide legal services, other than those relating to civil actions or opinions, under ch. [150](#) to the department of health services.

(c) The department shall at the end of each fiscal year, except for programs financed out of the general fund and except for services required to be provided by statute other than this subsection, render to the respective agencies enumerated in this subsection an itemized statement of the total cost of the legal and other services including travel expenses and legal expenses enumerated in s. [20.455 \(1\) \(d\)](#).

(d) Upon receipt of the statement, the respective agency head shall audit the statement and upon finding it to be correct shall certify the amount of the statement to the department of administration to be paid into the general fund out of the agency's proper appropriation.

(5) PREPARE FORMS. Whenever requested by the head of any department of the state government, the department of justice shall prepare proper drafts of forms for contracts and other writings which may be wanted for the use of the state.

(6) ATTORNEY FOR STATE.

(a)

1. At the request of the head of any department of state government, the attorney general may appear for and defend any state department, or any state officer, employee, or agent of the department in any civil action or other matter brought before a court or an administrative agency which is brought against the state department, or officer, employee, or agent for or on account of any act growing out of or committed in the lawful course of an officer's, employee's, or agent's duties. Witness fees or other expenses determined by the attorney general to be reasonable and necessary to the defense in the action or proceeding shall be paid as provided for in s. [885.07](#). The attorney general may compromise and settle the action as the attorney general determines to be in the best interest of the state except that, if the action is for injunctive relief or there is a proposed consent decree, the attorney general may not compromise or settle the action without the approval of an intervenor under s. [803.09 \(2m\)](#) or, if there is no intervenor, without first submitting a proposed plan to the joint committee on finance. If, within 14 working days after the plan is submitted, the cochairpersons of the committee notify the attorney general that the committee has scheduled a meeting for the purpose of reviewing the proposed plan, the attorney general may compromise or settle the action only with the approval of the committee. The attorney general may not submit a proposed plan to the joint committee on finance under this subdivision in which the plan concedes the unconstitutionality or other invalidity of a statute, facially or as applied, or concedes that a statute violates or is preempted by federal law, without the approval of the joint committee on legislative organization.

2. Members, officers, and employees of the Wisconsin state agencies building corporation and the Wisconsin state public building corporation are covered by this section. Members of the board of governors created under s. [619.04 \(3\)](#), members of a committee or subcommittee of that board of governors, members of the injured patients and families compensation fund peer review council created under s. [655.275 \(2\)](#), and persons consulting with that council under s. [655.275 \(5\) \(b\)](#) are covered by this section with respect to actions, claims, or other matters arising before, on, or after April 25, 1990. The attorney general may compromise and settle claims asserted before such actions or matters formally are brought or may delegate such authority to the department of administration. This paragraph may not be construed as a consent to sue the state or any department thereof or as a waiver of state sovereign immunity.

(b) Volunteer health care providers who provide services under s. [146.89](#), except those described in s. [146.89 \(5\) \(a\)](#), practitioners who provide services under s. [257.03](#), and health care facilities on whose behalf services are provided under s. [257.03](#) are, for the provision of those services, covered by this section and shall be considered agents of the department of health services for purposes of determining which agency head may request the attorney general to appear and defend them.

(c) Physicians under s. [251.07](#) or [252.04 \(9\) \(b\)](#) are covered by this section and shall be considered agents of the department of health services for purposes of determining which agency head may request the attorney general to appear and defend them.

(e) The department of justice may appear for and defend the state or any state department, agency, official or employee in any civil action arising out of or relating to the assessment or collection of costs concerning environmental cleanup or natural resources damages including actions brought under [42 USC 9607](#). The action may be compromised and settled in the same

manner as provided in par. [\(a\)](#). At the request of the department of natural resources, the department of justice may provide legal representation to the state or to the department of natural resources in the same matter in which the department of justice provides defense counsel, if the attorneys representing those interests are assigned from different organizational units within the department of justice. This paragraph may not be construed as a consent to sue the state or any department, agency, official or employee of the state or as a waiver of sovereign immunity.

(6m) ATTORNEY FOR STATE WITNESSES. At the request of the head of any department or agency of state government, the attorney general may appear for and represent any state official, employee or agent who is required to appear as a witness in any administrative or civil matter.

(7) KEEP RECORD OF ACTIONS. The department shall keep a record of all actions and demands prosecuted or defended by the department on behalf of the state and all related proceedings. The department may dispose of public records in accordance with s. [16.61](#).

(8) HISTORICAL SOCIETY CONTRACTS. In subs. [\(1\)](#), [\(1m\)](#), [\(6\)](#) and [\(6m\)](#), treat any nonprofit corporation operating a museum under a lease agreement with the state historical society as a department of state government and any official, employee or agent of such a corporation as a state official, employee or agent.

(8m) LOCAL EMERGENCY PLANNING COMMITTEES. In subs. [\(1\)](#), [\(1m\)](#), [\(6\)](#) and [\(6m\)](#), treat any local emergency planning committee appointed by a county board under s. [59.54 \(8\) \(a\)](#) as a department of state government and any member of such a committee as a state official, employee or agent.

(9) PERFORM OTHER DUTIES. The department of justice shall perform all other duties imposed upon the department by law.

(10) REPORT ON RESTITUTION. Semiannually submit a report to the department of administration and the joint committee on finance regarding money received by the department of justice under a court order or a settlement agreement for providing restitution to victims. The report shall specify the amount of restitution received by the department of justice during the reporting period; the number of persons to whom the department of justice paid restitution and the total amount that the department of justice paid to all recipients during the reporting period; and the department of justice's methodology for selecting recipients and determining the amount paid to each recipient.

(10m) REPORT ON GRANTS. Beginning on January 15, 2015, and annually thereafter, the department of justice shall submit a report to the legislature under s. [13.172 \(2\)](#), regarding its administration of grant programs under ss. [165.95](#), [165.955](#), [165.96](#), [165.986](#), and [165.987](#). The report shall include, for each grant program, all of the following information:

(a) The amount of each grant awarded by the department of justice for the previous fiscal year.

(b) The grant recipient to whom each grant was awarded.

(c) The methodology used by the department of justice to choose grant recipients and to determine the level of grant funding for each grant recipient.

(d) Performance measures created by the department of justice for each grant program.

(e) Reported results from each grant recipient in each fiscal year as to the attainment of performance measures the department of justice developed for the grant recipient.

(11) REPORT ON FIELD PROSECUTOR POSITIONS. The department of justice shall submit an annual report to the joint committee on finance regarding the field prosecutor attorney positions created under [2017 Wisconsin Act 261](#), section [13](#). The report shall describe the activities and assess the effectiveness of the attorneys in assisting the division of criminal investigation in the field offices

of Wausau and Appleton and in assisting district attorneys in the prosecution of drug-related offenses.

(12) REPRESENTATION ARISING FROM AGREEMENTS WITH MINNESOTA. Represent any employee of the state of Minnesota who is named as a defendant in any civil action brought under the laws of this state as a result of performing services for this state under a valid agreement between this state and the state of Minnesota providing for interchange of employees or services and any employee of this state who is named as a defendant as a result of performing services for the state of Minnesota under such an agreement in any action brought under the laws of this state. Witness fees in any action specified in this subsection shall be paid in the same manner as provided in s. [885.07](#). The attorney general may compromise and settle any action specified in this subsection to the same extent as provided in s. [165.25 \(6\) \(a\)](#).

(13) JUVENILE JUSTICE IMPROVEMENT PLAN. Serve as the state planning agency under the juvenile justice and delinquency prevention act of 1974, P.L. [93-415](#). The department shall prepare a state comprehensive juvenile justice improvement plan. The plan shall be submitted to the governor, the joint committee on finance in accordance with s. [16.54](#), and to the appropriate standing committees of each house of the legislature as determined by the presiding officer of each house. The plan shall be updated periodically and shall be based on an analysis of the state's juvenile justice needs and problems.

(14) COOPERATION AND ASSISTANCE. Cooperate with and render technical assistance to state agencies and units of local government and public or private agencies relating to the criminal and juvenile justice system.

(15) CONTRACTS AND EXPENDITURES. Apply for contracts or receive and expend for its purposes any appropriation or grant from the state, a political subdivision of the state, the federal government or any other source, public or private, in accordance with the statutes.

(16) RULES REGARDING CONCEALED WEAPONS LICENSES. Promulgate by rule a list of states that issue a permit, license, approval, or other authorization to carry a concealed weapon if the permit, license, approval, or other authorization requires, or designates that the holder chose to submit to, a background search that is comparable to a background check as defined in s. [175.60 \(1\) \(ac\)](#).

(18) CRIME LABORATORIES; DEOXYRIBONUCLEIC ACID ANALYSIS. Determine the amount required to fund the appropriation account under s. [20.455 \(2\) \(Lm\)](#).

(19) CRIME LABORATORIES; DEOXYRIBONUCLEIC ACID ANALYSIS SURCHARGES. If the appropriation account under s. [20.455 \(2\) \(Lp\)](#) is anticipated to go into deficit, promptly notify the joint committee on finance in writing of the anticipated deficit.

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](#); [2003 a. 111, 235](#); [2005 a. 96, 458](#); [2007 a. 1](#); [2007 a. 20 ss. 2904, 9121 \(6\) \(a\)](#); [2007 a. 76, 79, 96, 130, 225](#); [2009 a. 2, 28, 42](#); [2011 a. 32, 35](#); [2013 a. 20 ss. 164, 166, 167, 180, 1904m](#); [2013 a. 166 s. 76](#); [2013 a. 173, 223, 241](#); [2015 a. 55, 118](#); [2017 a. 59, 261, 337, 369](#).

803.09 Intervention.

(1) Upon timely motion anyone shall be permitted to intervene in an action when the movant claims an interest relating to the property or transaction which is the subject of the action and the movant is so situated that the disposition of the action may as a practical matter impair or impede

the movant's ability to protect that interest, unless the movant's interest is adequately represented by existing parties.

(2) Upon timely motion anyone may be permitted to intervene in an action when a movant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order or rule administered by a federal or state governmental officer or agency or upon any regulation, order, rule, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely motion may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(2m) When a party to an action challenges in state or federal court the constitutionality of a statute, facially or as applied, challenges a statute as violating or preempted by federal law, or otherwise challenges the construction or validity of a statute, as part of a claim or affirmative defense, the assembly, the senate, and the legislature may intervene as set forth under s. [13.365](#) at any time in the action as a matter of right by serving a motion upon the parties as provided in s. [801.14](#).

(3) A person desiring to intervene shall serve a motion to intervene upon the parties as provided in s. [801.14](#). The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute gives a right to intervene.

History: Sup. Ct. Order, 67 Wis. 2d 585, 650 (1975); [1975 c. 218](#); [2007 a. 20](#); [2015 a. 55](#); [2017 a. 369](#).

893.825 Statutory challenges.

(1) In an action in which a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, the attorney general shall be served with a copy of the proceeding and is entitled to be heard.

(2) In an action in which a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, the speaker of the assembly, the president of the senate, and the senate majority leader shall also be served with a copy of the proceeding and the assembly, the senate, and the joint committee on legislative organization are entitled to be heard.

History: [2017 a. 369](#).

SECTION 102. Nonstatutory provisions.

(1) INTERVENTION BY ASSEMBLY, SENATE, AND JOINT COMMITTEE ON LEGISLATIVE ORGANIZATION. The assembly, senate, and joint committee on legislative organization may intervene as permitted under s. 803.09 (2m) in any litigation pending in state or federal court on the effective date of this subsection.