



**Fiscal Note Request SB0218, As Amended in HAC 4/10/03**

(continued)

4. Passage of this bill would revise the existing Appellate Defender Commission and create a statewide Public and Defender Commission (combined public defender and appellate) and the office of the Chief Public Defender effective July 1, 2003. Passage of this bill would result in the state assuming public defenders and their associated offices throughout the state, effective July 1, 2004. This bill would attach these operations to the Department of Administration.
5. Costs that would be state assumed by this bill that are not currently reimbursed by the state are:
  - a. Costs of the Chief Public Defender Office including personal services, office space, and operating costs;
  - b. Operating costs such as state data network connection fees and statewide case management system.
6. Chief Public Defender Office: \$378,639 in FY 2004 and \$436,494 in FY 2005
  - a. Personal Services: \$211,757 in FY 2004 and \$315,982 in FY 2005  
 This office will consist of the chief public defender, an administrator who will manage the budget and thousands of contracts, an administrative assistant, accountant, and two accounting technicians. In FY 2004, only the chief public defender, administrator, assistant, and 0.50 FTE accountant will be needed, as the county Public Defender Offices will be state assumed July 1, 2004, the beginning of FY 2005. See the table below for salaries and benefits:

**Office of the Chief Public Defender**

	Fiscal Year 2004				Fiscal Year 2005			
	FTE	Salary	Benefits	Total	FTE	Salary	Benefits	Total
<b>Personal Services:</b>								
Chief Public Defender	1.00	75,000	16,695	91,695	1.00	75,000	17,295	92,295
Administrator (G18)	1.00	50,232	12,806	63,038	1.00	50,232	13,406	63,638
Admin Assist. (G10)	1.00	23,999	8,688	32,687	1.00	23,999	9,299	33,287
Accountant (G15)	0.50	37,816	10,857	24,337	1.00	37,816	11,457	49,273
Acct. Technician (G12)	0.00	28,716	9,428	0	2.00	28,716	10,028	77,489
<b>Subtotal - p.s.</b>	<b>3.50</b>			<b>211,757</b>	<b>6.00</b>			<b>315,982</b>

- b. Operating costs will be \$166,882 in FY 2004 and \$120,511 in FY 2005
    - i. Rent (2400 sq ft x \$12 per sq ft per year = \$28,800 per year),
    - ii. Data network connection (\$72.60 per mo per connection x 5 connections [4 personnel and fax] x 12 mos = \$4356 in FY 2004, \$72.60 x 7 connections [6 personnel and fax] x 12 mos = \$6098 in FY 2005),
    - iii. Case Management System: The counties currently have no consistent public defender case management system. This fiscal note includes \$75,000 in FY 2004 for consulting services to perform a needs assessment, develop recommendations, and select a proper case management system, \$50,000 in FY 2005 for purchase and implementation of the system.
    - iv. Furniture (\$1500 per employee x 6 = \$9,000, FY 2004 only),
    - v. Personal computers (\$1351 per pc x 6 = \$8106, FY 2004 only),
    - vi. D of A will provide payroll-processing services to the Public Defender Office. Charges for these services are estimated at \$1,320 in FY 2004 for four employees and \$17,813 in FY 2005 for the fully staffed office. In addition, position descriptions and job classifications for the staff will need to be completed at a contracted rate of \$500 each. In FY 2004, approximately 60 positions will need to be classified at a cost of \$30,000.
    - vii. Travel of \$2,800 per year (four tours per year at \$700 per tour), and
    - viii. Fixed costs and overhead of approximately \$7,500 in FY 2004 and \$15,000 in FY 2005.
7. Contracts with appointed counsel are currently paid at a maximum of \$60 per hour. Contracts with the chief public defender will be paid at higher rates.

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8. Other operating costs for Public Defender Offices: \$76,628 in FY 2005

The state will connect each Public Defender Office on the state data network (55 personal computers, 4 servers and 6 fax machines) at a total cost of \$56,628 (65 connections x \$72.60 per month per connection x 12 months). This is a new cost not currently reimbursed by the state.

Office furniture, equipment, and supplies: Public defenders who continue to work in county buildings will continue to use county office furniture; however, replacement of office equipment, computer equipment, furniture, and fixtures will be at the expense of the state. These costs are projected to be approximately \$5,000 per office x four offices = \$20,000 in FY 2005.

Counties will incur the expense of providing office space for the 2005 Biennium. Starting in FY 2006, the counties may charge for rent.

9. Budget for Indigent Defense is in the District Court program in the Judiciary:

Applying inflation factors to the FY 2001 county-reported figures for the Public Defender Offices and related indigent defense costs results in total projected indigent defense costs of \$5,510,800 in both FY 2004 and FY 2005. These indigent defense costs were confirmed after extensive review by the Joint Subcommittee of Senate Finance and Claims and Senate Judiciary Committees. This bill transfers the obligation of paying these expenses from the Judiciary to the Department of Administration in FY 2005.

10. HB 176 of the 2001 Session allocated 8.50 FTE and associated personal services and operating costs to the Judiciary for administration of the District Courts. The transfer of functions to the Department of Administration justifies transferring 1.00 FTE and associated personal services of \$59,642 and operating of \$23,873 in FY 2005.

11. This bill directs that current county public defender office employees will be state-assumed on July 1, 2004. A Montana Association of Counties (MACo) survey presented on March 20, 2003, to the Joint Subcommittee of Senate Finance and Claims and Senate Judiciary hearing on SB 134 indicated a total of 52.50 FTE associated with county public defender offices.

12. Section 13 directs that any county with public defender office employees who convert to state employment shall pay the state for all of the accumulated leave liability at 25 percent of sick leave and 100 percent of vacation leave. The transferred employees shall then retain their accumulated sick and vacation leave. These amounts are accounted for as revenue to the general fund in FY 2005. Reports from MACo indicate that the sick leave liability is \$48,298 and the vacation leave liability is \$134,142, for a total payment to the state of \$182,440 for leave liability.

13. Section 18 allows for a \$1 user surcharge as related to case filings, effective in FY 2005, to be deposited in the general fund. Revenue from a \$5 surcharge in effect in FY 2002 was \$918,523. One-fifth of this amount (\$1 versus \$5) would equate to potential revenue in FY 2005 of \$183,705; however, the provision in Section 18 (2) allows the court to waive the fee if it determines that the party is unable to pay this fee. No revenue as a result of this fee is assumed in this fiscal note.

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FISCAL IMPACT:

	<u>FY 2004</u> <u>Difference</u>	<u>FY 2005</u> <u>Difference</u>
<b>Judiciary</b>		
FTE	0.00	(1.00)
<u>Expenditures:</u>		
Indigent Defense - transferred to D of A	\$0	(\$5,510,800)
Personal Services	0	(59,642)
Operating Expense	<u>0</u>	<u>(23,873)</u>
TOTAL	\$0	(\$5,594,315)
<u>Funding of Expenditures:</u>		
General Fund (01)	\$0	(\$5,594,315)
<b>Department of Administration</b>		
FTE		
4-county Public Defender Offices	0.00	52.50
Chief Public Defender Office	3.50	6.00
<u>Expenditures:</u>		
Indigent Defense – transferred from Judiciary	\$0	\$5,510,800
4-county Public Defender Offices		
Operating expenses	0	76,628
Chief Public Defender Office		
Personal Services	211,757	315,982
Operating Expenses	<u>166,882</u>	<u>120,511</u>
TOTAL	\$378,639	\$6,023,922
<u>Funding of Expenditures:</u>		
General Fund (01)	\$378,639	\$6,023,922
<b>Statewide</b>		
<u>Revenues:</u>		
General Fund (01)		
Leave Liability	\$0	\$182,440
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	(\$378,639)	(\$247,167)

LONG-RANGE IMPACTS:

1. The state will have the responsibility to pay for rent for county public defender offices starting in FY 2006. This amount is currently estimated at \$200,000 per year.

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TECHNICAL NOTES:

1. A new procedure may be required for the counties to reimburse the state for public defender personal service costs in civil cases, since the public defenders will be on the state payroll system. Options may include either the counties making payments to the state for these costs, or the state deducting these amounts from the county's entitlement share.
2. There are \$761,155 of costs reported by counties in FY 2001 labeled as continued county public defender costs. Since the specific expenses were not identified, it is unclear whether or not the state assumed responsibility for these costs. These amounts were not deducted from the entitlement share in FY 2003 to fund District Courts.
3. The counties have indicated that several positions within the public defender offices are currently vacant. If these positions are filled, the number of FTE and associated personal services costs that the state assumes will increase proportionately.
4. The Judiciary has requested amendments to HB 2 for an additional \$1.8 million in the 2005 biennium for District Court funding. If this bill is passed and approved, it is unclear how much of the \$1.8 will be associated with indigent defense.