

Decision Matrix: County Attorney Salaries and Costs

for the
Law and Justice Interim Committee
 prepared by
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Policy Question	Current Law	Discussion	Options
<p>1. Should the state's share of county attorney costs be determined based on county attorney salaries?</p>	<p>The state obligation is determined according to the salary set by county compensation boards. The state pays to each county every two weeks no more than 50% of the county attorney's salary. However, the state may pay less than 50% if the county does not provide new salary increase information to DOJ prior to DOJ's budget proposal. <i>(Sections 7-4-2502, 7-6-2426, and 17-7-112, MCA)</i></p>	<p><u>Historical perspective:</u> In 1865, the Legislative Assembly of the Territory of Montana passed an act authorizing district attorneys (who were elected by Judicial District and who enforced state laws locally) to receive "ten percent of all monies collected" from parties in a case, a \$1,500 annual base salary paid from the Montana Territorial treasury, and fees paid by each county based on the number of the district attorney's successful prosecutions for capital felonies, non-capitol felonies, and misdemeanors committed in the county. Language in the 1889 Montana Constitution provided that the state must pay one-half of the county attorney's salary, with the county responsible for all remaining costs. That basic language is what remains in statute today.</p>	<p>A. YES, keep the state share of funding for county attorney services based on the county attorney's salary. <i>(Go to Question 2.)</i></p> <p>B. YES BUT, add a health insurance factor.</p> <p>C. NO, set state funding according to another method of cost sharing, such as setting a state base rate that is determined according to uniformly applied factors, such as:</p> <ul style="list-style-type: none"> (i) population; (ii) caseload; (iii) district judge salaries; (iv) other? <p><i>(Options that the LJIC is interested in considering would be developed and discussed at the next meeting.)</i></p>

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<p>2. If YES (Option A) for Question 1, then how should county attorney salaries be set?</p>	<p>Section 7-4-2403(3) MCA, provides that: -- counties with 30,000 or more population must have a FT county attorney; -- the base salary for a FT county attorney is \$50,000 per year; -- the base salary of a PT county attorney is equal to the salary paid for the FY ending 6/30/01; -- the base is subject to adjustment by the county compensation board (but cannot be lowered from the May 1, 2001 amount).</p> <p>Section 7-4-2403(4), MCA, provides that: -- each compensation board must make their own pay schedule; and -- each board must take into consideration county variations that must include population, residents in unincorporated areas, assessed valuation, motor vehicle registrations, building permits, and other factors considered necessary to reflect variations in workload and a county's ability to pay (i.e., tax base).</p> <p>Section 7-4-2505(2), MCA, provides that the salary of the deputy county attorney may not exceed the salary of county attorney. Section 7-4-2402(3)(d) provides that deputy county attorneys must receive certain longevity increases.</p>	<p><u>At issue:</u> -- Pay equity, internal and external -- Career path, experience, training -- Recruitment and retention</p> <p><u>Base salary discussion questions are:</u> -- Should FT or PT county attorneys continue to be based on a population threshold of plus or minus 30,000? -- Should a minimum base salary continue to be set at \$50,000 (or date certain)?</p> <p><u>County boards:</u> -- Should county compensation boards continue to set county attorney pay schedules? -- Should statute continue to require that certain factors be considered?</p> <p><u>Longevity increases:</u> -- Deputy county attorneys are not elected. The longer a deputy stays, the more the base salary of the elected county attorney is pushed up. Should this remain the same?</p> <p><u>Clean-up:</u> Current statutory language is confusing and scattered. A clean-up bill could consolidate provisions and fix inconsistent style and language.</p>	<p>A. Current law (i.e., no changes.)</p> <p>B. Current law BUT do a clean-up bill to clarify language, make no substantive changes.</p> <p>C. Change. Consider other options for setting county attorney salaries, such as: (i) salary surveys; (ii) a percentage of district judge salaries; (iii) cost of living; (iv) population; (v) caseload; (vi) a statewide classification and pay plan; (iv) other?</p>

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<p>3. Under any of the above scenarios, should how the state budgets and pays for county attorney costs be changed?</p>	<p>Section 7-4-2502(2)(a), MCA, provides that the state pays one-half the salary of a county attorney if the county has provided salary information to the DOJ in time for its budget planning process. If information is not provided by the county, the county is responsible for any increase in salary.</p> <p>Section 17-7-112, MCA., provides that: -- DOJ must submit with its budget any county information on salaries that it has received. This does not mean that the governor or the legislature must fund the amount submitted.</p> <p>Thus, current law provides that the state's obligation for funding is subject to the state's regular budget process and would be included (or not) in HB 2.</p>	<p>Current provisions are troublesome for DOJ and the counties, and are continuing source of angst for county attorneys and the legislature.</p> <p><u>DOJ</u> must deal with 56 "wild cards" when it prepares its budget submission.</p> <p><u>Each county</u> must oblige the state budget cycle, ride the waves of legislative budget battles, and wait until HB 2 is passed to know what the state will pay for county attorney salaries.</p> <p><u>County attorneys</u> are unsure of what their salaries may be.</p> <p><u>Legislators</u> are constantly having to navigate the troubled waters and a triad of competing concerns: county, state, and attorney.</p> <p><u>Clean-up:</u> Current statutory language is awkward and even conflicting and should be better coordinated.</p>	<p>A. No Change (i.e., keep it a general appropriation to DOJ and part of HB 2).</p> <p>B. Clean-up current language, but don't make any substantive changes.</p> <p>C. Set up a statutory appropriation.</p> <p>D. Use the entitlement share, which has a built-in growth factor that is roughly about 2.8% per year.</p>