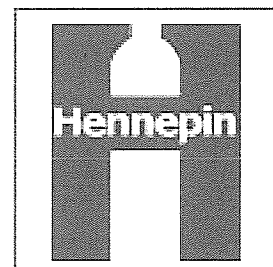
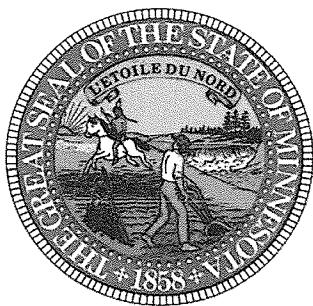


07 - 0689

Funding Public Defender Services in the Fourth Judicial District (Hennepin County) October 2007



A report to the Legislature prepared
by the Board of Public Defense and
Hennepin County per Laws of
Minnesota Chapter 54 Article 5

LEGISLATION

The 2007 Legislature mandated that the Board of Public Defense and Hennepin County provide a report to the Legislature on the funding of public defender services in the Fourth Judicial District (Hennepin County). Specifically, Laws of Minnesota Chapter 54 Article 5 Section 20 states that:

The State Board of Public Defense and the Hennepin County Board of Commissioners shall jointly prepare a report to the legislature on the history of the funding of the public defender's office in the Fourth Judicial District provided by the state and Hennepin County. The report must compare the costs and services provided by the Fourth Judicial District Public Defender's Office to the costs and services provided by the State Board of Public Defense in all other public defender district offices. The report must detail the amount of funding provided by Hennepin County to the Fourth Judicial District Public Defender's Office and the amount necessary for the state to assume the full costs of the public defender duties in the Fourth Judicial District as in the other judicial districts throughout the state. The report must also recommend specific legislation that would provide for an appropriate resolution of the state and local funding of the Fourth Judicial District Public Defender's Office. The report must be completed by October 1, 2007, and be submitted to the commissioner of finance, the chairs and ranking minority members of the senate and house committees and divisions with jurisdiction over finance, judiciary, judiciary finance, and public safety finance, and the house Ways and Means Committee.

BACKGROUND

In 1989 the State of Minnesota began assuming the cost of public defense services from the counties. In that year the state assumed the cost of felony and gross misdemeanor services in all ten Judicial Districts. It also assumed the cost of juvenile and misdemeanor services in the Second, Fourth and Eighth Judicial Districts. The Second and Fourth Judicial District Public Defender Offices were full service offices (full time offices providing felony, gross misdemeanor, misdemeanor, and juvenile services) and the Eighth Judicial District Public Defender Office was a part of the original pilot project of state assumption of court costs.

In order to pay for the additional cost of juvenile and misdemeanor services in the Second and Fourth Judicial Districts, the appropriation to the Board of Public Defense was partially offset by a reduction in Homestead and Agricultural Credit Aids(H.A.C.A.) to Ramsey and Hennepin Counties. The total offset was \$4,600,000. (Of this amount approximately \$3.2 was the Hennepin County share). This was effective July 1, 1990.¹

After passage of the legislation it was discovered that under county budgeting practices in place at the time several items were not included in the public

¹ House Research Memo, Karen Baker- 11/7/1990.

defender office budget but were budgeted for centrally (this was the case for other county offices as well). These included such items as building maintenance for the Hennepin County Government Center, personnel cost increases, indirect costs (related to human resources, payroll, and information systems) and additional personnel cost items. In addition, due to space considerations the public defender office was moved from the Government Center to private space at a cost of \$573,000. ⁱⁱ Today the cost of space for Hennepin County public defenders and staff is \$861,973.00.

In 1991 and again in 1993, the Board of Public Defense sought funding for the salary and benefit increases for county employees in Hennepin and Ramsey Counties. The legislature did not approve these requests. At the same time the Board proposed and the legislature passed statutory language that allowed base budget increases for the personnel costs associated with county employees if these base adjustments were granted for state employees. Since that time these base adjustments have not occurred.

In 1993 the Board and Hennepin County signed a memorandum of understanding effective for two years beginning 12/3/1993. In that memorandum the County agreed to “supplement the Board’s allocation for the Office to the extent the County Board determines through its annual budgeting process.”

Also in the memorandum the parties pledged their best efforts to “secure legislative approval for the county to relinquish authorized Homestead and Agricultural Credit Aids (H.A.C.A.) and for an equivalent state appropriation earmarked for office rent, family court services, and four positions previously funded by the County”.

During this time there were not only concerns regarding the items that the appropriation to the Board did not cover, but also the employment status of county employees. The concern was that the counties (Hennepin and Ramsey) were negotiating contracts with the employee groups while the state was expected to provide the funding.

Recognizing the funding limitations the State was facing the legislature passed legislation to limit the state’s obligation for the costs of public defense services. M.S. 611.27 Subd 5 (1996) was amended to read:

“The board of public defense may only fund those items and services in district public defender budgets which were included in the original budgets of district public defender offices as of January 1, 1990. All other public defense related costs remain the responsibility of the counties unless the state specifically appropriates for these. The cost of additional state funding of these items and services must be offset by reductions in local aids in the same manner as the original state takeover.”

ⁱⁱ Memo- John Pederson, Hennepin County Public Defender’s Office 10/25/1998

On the issue of personnel, discussion centered whether the state should assume the costs for county employees in Hennepin and Ramsey Counties. There was sentiment in the Legislature to immediately convert county employees to state employment. During the 1998 Legislative Session a compromise was reached that allowed for current county employees to maintain their county employment status, but those employees hired after January 1, 1999 would be hired as state employees.

This is also reflected in current board policy that states *"The Board supports maintenance of county employee status in the 2nd and 4th districts, for employees hired prior to January 1, 1999. The Board will not support employee status changes from county to state status against the employee's will for employees in the 2nd and 4th districts hired prior to January 1, 1999."*

The Legislature also sought to resolve the funding issue with passage of M.S. 611.26 Subd 3 which provided for a cost sharing between the State of Minnesota and Hennepin County in funding the Fourth Judicial District Public Defender Office. M.S. 611.26 Subd 3 reads that; *"In the Fourth Judicial District, the district public defender's office shall be funded by the Board of Public Defense and by the Hennepin County Board. Personnel expenses of state employees hired on or after January 1, 1999, in the Fourth Judicial District Public Defender's Office shall be funded by the Board of Public Defense."*

Hennepin County is the only county that provides this kind of property tax support for public defense.

At this time it was thought that through attrition of county employees the county contribution to public defense would gradually be reduced. The original estimate made by county staff estimated that the last county subsidy would be made in 2014. This estimate assumed that an average of six county paid public defender staff would leave each year (an average of 3.4 public defenders left the office during previous years) and that the grant from the Board of Public Defense would remain flat.ⁱⁱⁱ

Budget pressures at the county and state level have not allowed for increased costs and have put pressure on both the county and state budgets. (The 2004 legislative appropriation to the Board was \$946,000 lower than in 2003, and there was no increase between 2004 and 2005). The amount that Hennepin County was providing to subsidize the operation of the public defender office has continued to grow. (See Chart page 5) Since 1990 Hennepin County has contributed approximately \$72.5 million in property tax toward the support of the Fourth Judicial District Public Defender Office. In addition, there were the costs of the non-personnel related items mentioned above, 13.5 FTE positions that the

ⁱⁱⁱ Memo- John Villierius Hennepin County Budget and Finance 3/16/98

Hennepin County Board approved through 1997^{iv}, as well as the substantially higher salary and benefits of county employees. (16% on average in 1998)^v. In 2007 the average salary of county employees in the office is \$90,000, while the average salary of the state employees in the office is approximately \$60,000.

The original estimate for attrition of county employees has not been met.^{vi} In fact, in the last two years no county paid attorneys have retired from the office. At the same time the Board of Public Defense has focused its limited resources on caseload relief and has strived to even out caseloads (see chart on page 7) and resources across the state including in the Fourth Judicial District.

The result has been that Hennepin County continues to provide a larger subsidy for the public defender office.

^{iv} Memo- John Pederson Hennepin County Public Defender Office 10/25/1998

^v Memo- John Villerius Hennepin County Budget and Finance 3/16/1998

^{vi} From 1999-2007 the county complement has decreased by 49.3 FTE or roughly 30%. Most of the decrease has occurred in the area of support staff.

State and County Funding of Hennepin County Public Defender

<u>Year</u>	<u>State Funds to the County</u>	<u>% Chg</u>	<u>State Funds Expended State Employees **</u>	<u>% Chg</u>	<u>County Property Tax</u>	<u>% Chg</u>	<u>Total Funds</u>
1989	-				7,121,764		7,121,764
1990	7,683,584			N/A	684,299		8,367,883
1991	8,091,889	5.3%		N/A	1,298,334	89.7%	9,390,223
1992	8,091,100	0.0%		N/A	1,822,627	40.4%	9,913,727
1993	8,179,000	1.1%		N/A	2,388,922	31.1%	10,567,922
1994	9,169,500	12.1%		N/A	1,757,445	26.4%	10,926,945
1995	9,281,800	1.2%		N/A	2,681,204	52.6%	11,963,004
1996	8,861,245	-4.5%		N/A	4,409,588	64.5%	13,270,833
1997	8,876,847	0.2%		N/A	5,125,988	16.2%	14,002,835
1998	10,001,400	12.7%		N/A	3,522,742	31.3%	13,524,142
1999	9,686,706	-3.1%	154,358	N/A	4,112,585	16.7%	13,953,649
2000	9,102,118	-6.0%	714,450	363%	4,600,855	11.9%	14,417,423
2001	9,605,638	5.5%	1,171,108	64%	4,098,197	10.9%	14,874,943
2002	9,330,225	-2.9%	1,802,608	54%	5,035,089	22.9%	16,167,922
2003	8,592,000	-7.9%	2,214,638	23%	5,870,353	16.6%	16,676,991
2004	7,400,000	13.9%	2,629,573	19%	6,206,658	5.7%	16,236,231
2005	7,800,000	5.4%	3,903,446	48%	5,921,755	-4.6%	17,625,201
2006	7,800,000	0.0%	4,657,335	19%	5,983,626	1.0%	18,440,961
2007*	8,192,000	5.0%	5,192,746	11%	6,931,885	15.8%	20,316,631

* Includes \$392,000 in additional revenue received from the State Board of Public Defense and prospective transfer of \$392,000 from Hennepin County.

** State funds by state fiscal year.

CASELOADS

In 1989 the Legislature funded a Weighted Caseload Study for the Board of Public Defense. In 1991 after review of the Weighted Caseload Study (WCSL), the Board adopted as a goal caseload standards for attorneys under its jurisdiction. These standards (which have also been recognized by the A.B.A.) state that in one year, a full-time equivalent attorney should handle no more than 150 felony cases, or 275 gross misdemeanor cases, or 400 misdemeanor cases, or 80 juvenile welfare cases(CHIPS), or 175 juvenile cases, or 200 other cases. Using these standards, public defender cases can be converted to "case units". The case unit is roughly the equivalent of handling a misdemeanor case.

The "case unit" measure takes into account the relative difficulty of the different types of cases, and is one measure of the workload of public defenders. Based on the standard the goal is that a full time equivalent attorney handles no more than 400 "case units" in a year.

The "case unit" is a significant variable used by the Board in distribution of funds. Over the last several years the Board has worked to reduced variations among districts in the number of case units handled per full time equivalent attorney. As recently as fiscal year 2004 there were at least two district public defender offices (9th and 10th) that were handling significantly more than double the number of case units per full time equivalent attorney than the caseload standards called for.

What the "case unit" does not measure and what the Board has also tried to take into account in recent years is the excess hours provided by part time public defenders for which they are not paid. During 2006 part time defenders provided approximately 40,000 hours of public defense service for which they were not paid.

The chart below outlines the number of case units by district for fiscal year 2006 along with the percent of full time equivalent attorneys by district for 2006. This gives a rough approximation of the work load by district. Local variations do occur due to prosecution patterns, judicial discretion, availability of diversion programs, ability and willingness to certify misdemeanors as petty misdemeanors, and especially in Greater Minnesota the court time necessary to resolve cases. Here we can see that the Fourth Judicial District Public Defender Office accounts for approximately 27.7% of the case units, and has approximately 26.7% of the full time equivalent attorneys.

<u>DISTRICT</u>	<u>F.Y. 2006 CASE UNITS</u>	<u>PERCENT OF CASE UNITS</u>	<u>F.T.E. ATTORNEYS *</u>	<u>PERCENT OF F.T.E.s</u>
FIRST DISTRICT	27,975	9%	40.3	10%
SECOND DISTRICT	36,417	11%	46.3	11%
THIRD DISTRICT	21,615	7%	31.1	7%
FOURTH DISTRICT	87,956	27.7%	112.6	26.7%
FIFTH DISTRICT	15,954	5%	24.0	6%
SIXTH DISTRICT	15,697	5%	22.5	5%
SEVENTH DISTRICT	27,917	9%	37.8	9%
EIGHTH DISTRICT	9,696	3%	14.3	3%
NINTH DISTRICT	28,272	9%	35.5	8%
TENTH DISTRICT	45,893	14%	56.8	13%
	317,391	100%	421	100%

* Includes managing attorneys at 50% time per the Weighted Caseload Standard

BUDGET

The available state budget for district public defense in fiscal year 2006 was approximately \$51,000,000. In looking at the available resources we see that the Fourth Judicial District Public Defender Office accounts for 27.7% of the case units while receiving 25% of the available funding. While a gap still exists, this has narrowed from 1997 when the county accounted for 31.2% of total district case units, and received 26.1% of total district funding.^{vii}

The percent of funding changes considerably when the Hennepin County contribution is added into the available funding stream. If we take into account the county contribution, the percent of funding available for district public defense increases to just over 32%.

<u>DISTRICT</u>	<u>FY 2006 CASE UNITS</u>	<u>PERCENT OF CASE UNITS</u>	<u>FY 2006 STATE FUNDING</u>	<u>PERCENT OF BUDGET</u>
FIRST DISTRICT	27,975	9%	\$5,047,250	10%
SECOND DISTRICT	36,417	11%	\$6,507,000	13%
THIRD DISTRICT	21,615	7%	\$3,829,250	8%
FOURTH DISTRICT*	87,956	28%	\$12,573,000	25%
FIFTH DISTRICT	15,954	5%	\$3,316,000	7%
SIXTH DISTRICT	15,697	5%	\$3,035,000	6%
SEVENTH DISTRICT	27,917	9%	\$4,286,250	8%
EIGHTH DISTRICT	9,696	3%	\$2,050,000	4%
NINTH DISTRICT	28,272	9%	\$4,250,000	8%
TENTH DISTRICT	45,893	14%	\$6,014,250	12%
	317,391	100%	\$50,908,000	100%

^{vii} Memo Steve Louie, Hennepin County Administration 3/28/1997

<u>DISTRICT</u>	<u>FY 2006 CASE UNITS</u>	<u>PERCENT OF CASE UNITS</u>	<u>FY 2006 BUDGET *</u>	<u>PERCENT OF BUDGET</u>
FIRST DISTRICT	27,975	9%	\$5,047,250	9%
SECOND DISTRICT	36,417	11%	\$6,507,000	12%
THIRD DISTRICT	21,615	7%	\$3,829,250	7%
FOURTH DISTRICT*	87,956	27.7%	\$17,736,346	32%
FIFTH DISTRICT	15,954	5%	\$3,316,000	6%
SIXTH DISTRICT	15,697	5%	\$3,035,000	5%
SEVENTH DISTRICT	27,917	9%	\$4,286,250	8%
EIGHTH DISTRICT	9,696	3%	\$2,050,000	4%
NINTH DISTRICT	28,272	9%	\$4,250,000	8%
TENTH DISTRICT	45,893	14%	\$6,014,250	11%
	317,391	100%	\$56,071,346	100%

Includes \$5,163,346 provided by Hennepin County in calendar year 2006. This amount does not include funding associated with providing services in appeals and advisory counsel as required by statute or court rule.

In looking solely at a cost per case unit basis using only state funds, there is a range from approximately \$211 to \$131 with an average of \$160. This can be accounted for by economies of scale in the larger districts, differences in experience levels (and thus salaries) and caseloads. The issue of caseloads has been addressed by the Legislature and the Board and it is expected that in 2008 caseloads will be roughly equal across the state (within 5%).

It should be noted that this measure does not take into account the economies of scale of larger offices; personnel costs in those districts with more experienced staff, travel in Greater Minnesota, or the necessity of have full time offices in the more rural districts.

Also outside of the Second and Fourth Judicial District Public Defender Offices the majority of public defenders are part time. This review does not take into account the 40,000 excess hours provided by part time public defenders, or the office overhead provided by these same part time defenders, of which only a small portion is reimbursed by the state.^{viii}

Using this measure, the Fourth Judicial District has the second lowest cost per case. However, when the county salaries and contribution from Hennepin County are included the cost per case unit increases to approximately \$202.

^{viii} A 1992 survey of public defenders by the Board of Public Defense found that overhead cost per attorney was approximately \$22,000. National literature on attorney costs suggests that anywhere from 1/3-1/2 of an attorney's income is devoted to overhead. Part time defenders are provided an annual payment provided they meet minimum requirements. The annual overhead allotment is \$3,300 for a ¾ time defender and \$2,200 for a 50% time defender.

<u>DISTRICT</u>	<u>FY 2006 CASE UNITS</u>	<u>FY 2006 BUDGET</u>	<u>COST PER CASE</u>
FIRST DISTRICT	27,975	\$5,047,250	\$180.42
SECOND DISTRICT	36,417	\$6,507,000	\$178.68
THIRD DISTRICT	21,615	\$3,829,250	\$177.16
FOURTH DISTRICT *	87,956	\$17,736,346	\$201.65
FIFTH DISTRICT	15,954	\$3,316,000	\$207.85
SIXTH DISTRICT	15,697	\$3,035,000	\$193.35
SEVENTH DISTRICT	27,917	\$4,286,250	\$153.54
EIGHTH DISTRICT	9,696	\$2,050,000	\$211.43
NINTH DISTRICT	28,272	\$4,250,000	\$150.32
TENTH DISTRICT	45,893	\$6,014,250	\$131.05
<u>TOTAL</u>	317,391	\$56,071,346	\$176.66

* Includes \$5,163,346 provided by Hennepin County in calendar year 2006. This amount does not include funding associated with providing services in appeals and advisory counsel as required by statute or court rule.

SERVICES AND RESPONSIBILITIES

Outlined below are the core functions of public defense as identified in Minnesota Statutes 611.14. These core functions are provided throughout the state.

Adult Trial Level

Felonies
Gross Misdemeanors
Misdemeanors
Extraditions
Probation Revocations

Juvenile Trial Court Level

Delinquency cases (children 10 years of age and older charged with a misdemeanor, gross misdemeanor or felony Delinquency

Extended Juvenile Jurisdiction cases (children only)

Adult Certification cases (children only)

Child Protection Trial Court Level

Children 10 years of age and older in any Child Protection case (CHIPS, Permanency, Termination of Parental Rights, Delinquent Under 10)

Appellate Court Level

Felony Conviction
Gross Misdemeanor Conviction
Felony Post Conviction (when not previously appealed)
Gross Misdemeanor Post Conviction (when not previously appealed)

The Fourth Judicial District-Hennepin County Public Defender represents all the above at the adult, juvenile and child protection trial court level. The Appeals Unit represents the above at the appellate court level.

The County is required to provide, either by statute, court rule or case law, legal representation and services to people in the following areas:

Adult Trial Level

Advisory Counsel (counsel assigned when client in juvenile, adult gross misdemeanor or felony seeks to represent him/herself)

Juvenile Trial Level

Parents in Delinquency
Advisory Counsel

Child Protection Trial Level

Parents in Child Protection
Custodians in Child Protection
Parents in Permanency Placements
Parents in Termination of Parental Rights
Custodians in Termination of Parental Rights
Standby / Advisory Counsel
Guardians ad litem
All Non-Custodial Parents, Parties or participants appointed legal counsel by the court

Appeals Level

Misdemeanors
Misdemeanor Post Conviction
Felony Post Conviction (when previous appeal rejected)
Gross Misdemeanor Post Conviction (when previous appeal rejected)
Parents / Custodians Appealing Child Protection Adjudications
Parents / Custodians Appealing Termination of Parental Rights

All of the above county required services are provided by the Fourth Judicial District-Hennepin County Public Defender. These services are protected rights afforded to the people of Minnesota by statute, court rule or case law. All counties throughout the state are required to provide these services, each employing different mechanisms for delivering services (i.e. contract, case-by-case, etc.).

The exception to this is in the area of child protection cases outside the Fourth Judicial District. In those cases the state is providing services that by statute are a county responsibility.^{ix} (M.S. 260C.331)

In addition to providing attorneys for legal representation, state statutes require counties to fund some public defender client non-personnel costs. The following are some examples of non-personnel expenses required to be funded by counties throughout the state:

1. Copying Expenses (audio, video, interview transcripts) M.S. 611.271
2. Experts (accident reconstruction, DNA, medical, etc.) M.S. 611.21
3. Psychological Evaluations M.S. 611.21
4. Interpreters M.S. 611.21
5. Any non-attorney personal service reasonably necessary for effective representation.

In 2003 the Office estimated the costs involved in cases where the county is responsible for providing services. The following chart indicates the costs associated with these cases updated for 2007.

COSTS FOR COUNTY REQUIRED SERVICES- 2007

APPEALS	\$701,000
JUVENILE COURT-ADULT CLIENTS	\$1,972,000
ADVISORY COUNSEL	\$98,000
STATUTORY COUNTY COSTS ^x	\$231,000
TOTAL	\$3,002,000

^{ix} With the increased caseloads, time commitments and increased demands of the CJI, the Board of Public Defense does not have the resources to continue to provide non-mandated services, let alone meet the expectations of the CJI. This has led the Board over the last several legislative sessions to pursue a statutory solution to the CHIPS representation issue.

^x Does not include copying expenses or interpreters.

In addition to the above, Hennepin County in working to maintain a juvenile and criminal justice system that adequately serves the needs of the people of the county, has sometimes granted the public defender funding to participate in programs such as Drug Court, Mental Health Court, DWI Court, Information Technology programs and integrations with justice system partners, Downtown Safe Streets Initiative, and Juvenile Detention Alternatives Initiative.

Two ongoing county funded initiatives, the information technology program and the truancy initiative, were estimated to cost approximately \$323,000 in 2007.

SCENARIOS

Over the last several years the legislature has expressed its desire that there be a cost sharing arrangement between the State of Minnesota and Hennepin County in funding the office of the Fourth Judicial District Public Defender.

In the event that the legislature would want to increase the state's commitment it would need to address the issues related to the integrated nature of the office. These include how to fund services that are county required services such as appeals, advisory counsel, and adult clients in juvenile court,^{xi} as well as initiatives adopted by the county.

Three scenarios have been identified as ways the legislature could increase the state's role in funding the office. Due to the integrated nature of the office, under both scenarios the county and the state would continue to be partners in funding the office, as the county would continue to fund county required services as well as any county initiatives.

The first scenario would be a direct annual appropriation to the Board of Public Defense. A second scenario would be to fund an amount directly to Hennepin County through a tax expenditure using County Program Aid. The third scenario would be to fund a specific amount to the county using County Equalization Aid as outlined in Minnesota Statutes 477A.

Under Scenario 1 the state would provide funding for those items that are not required of the county or county initiatives. In this case the provisions of M.S. 611.27 Subd 5 (relating to a reduction in county aid) could be suspended since these are costs the state has assumed in other counties.

Under Scenario 2 Hennepin County would receive an increased amount of County Program Aid based on the annual costs of public defense services that are not required of the county or are county initiatives. Under Scenario 3 a specific dollar amount of County Equalization Aid would be set based again on the costs of public defense services that are not required of the county or are

^{xi} It should be noted that costs and services required by M.S. 611.21 and M.S. 611.27 would continue to be a responsibility of the county just as they are for other counties in the state.

county initiatives. Since it at some point in the future the majority of employees in the office will be state employees, in either of these scenarios the amount of aid required could be adjusted if the state chose to bond for a building to house the office.

SCENARIO 1

Section 1

\$_____ is appropriated to the Board of Public Defense for costs associated with providing public defense services in the Fourth Judicial District.

For the purpose of this appropriation the provision of M.S. 611.27 Subd 5 relating to the offset of reductions in local aids shall not be applied.

SCENARIO 2 - COUNTY PROGRAM AID

477A.0124 COUNTY PROGRAM AID.

Subdivision 1. **Calendar year 2004.** In 2004, each county shall receive program aid in an amount equal to the sum of:

- (1) the amount of county attached machinery aid computed for the county for payment in 2003 under section 273.138 prior to any reduction under laws enacted in 2003;
- (2) the amount of county homestead and agricultural credit aid computed for the county for payment in 2003 under section 273.1398, subdivision 2, prior to any reduction under laws enacted in 2003, minus the amount certified under section 273.1398, subdivision 4a, paragraph (b), for counties in Judicial Districts One, Three, Six, and Ten, and by 25 percent of the amount certified under section 273.1398, subdivision 4a, paragraph (b), for counties located in Judicial Districts Two and Four;
- (3) the amount of county manufactured home homestead and agricultural credit aid computed for the county for payment in 2003 under section 273.166 prior to any reduction under laws enacted in 2003;
- (4) the amount of county criminal justice aid computed for the county for payment in 2003 under section 477A.0121 prior to any reduction under laws enacted in 2003; and
- (5) the amount of county family preservation aid computed for the county for payment in 2003 under section 477A.0122 prior to any reduction under laws enacted in 2003.
- (6) the costs of public defender services paid by the county which are not required by statute, court rule or case law. This shall not include the costs associated with initiatives of the county board. *

SCENARIO 3 - COUNTY EQUALIZATION AID

477A.0124 COUNTY PROGRAM AID.

Subd. 4. **County tax-base equalization aid.** (a) For 2006 and subsequent years, the money appropriated to county tax-base equalization aid each calendar year, after the payment under paragraph (f), shall be apportioned among the counties according to each county's tax-base equalization aid factor.

(b) A county's tax-base equalization aid factor is equal to the amount by which (i) \$185 times the county's population, exceeds (ii) 9.45 percent of the county's net tax capacity.

(c) In the case of a county with a population less than 10,000, the factor determined in paragraph (b) shall be multiplied by a factor of three.

(d) In the case of a county with a population greater than or equal to 10,000, but less than 12,500, the factor determined in paragraph (b) shall be multiplied by a factor of two.

(e) In the case of a county with a population greater than 500,000, the factor determined in paragraph (b) shall be multiplied by a factor of 0.25.

(f) Before the money appropriated to county base equalization aid is apportioned among the counties as provided in paragraph (a), an amount up to \$73,259 is allocated annually to Anoka, an amount up to \$ _____ is allocated to Hennepin County for the cost of public defense services paid by the county which are not required by statute, court rule or case law, but are not associated with initiatives of the county board, and up to \$59,664 is annually allocated to Washington County for the county to pay postretirement costs of health insurance premiums for court employees. The allocation under this paragraph is in addition to the allocations under paragraphs (a) to (e).*

*Under either Scenario 2 or Scenario 3, the dollar amounts could be adjusted if the state chooses to bond for a building to house the Fourth Judicial District Public Defender Office.