



PROGRAM EVALUATION DIVISION

NORTH CAROLINA GENERAL ASSEMBLY

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The System of Attorney Allocation in North Carolina State Government is Decentralized

Summary

The 2017 Appropriations Act (Session Law 2017-57) directed the Joint Legislative Program Evaluation Oversight Committee to revise its 2017–18 work plan for the Program Evaluation Division to include an evaluation of the allocation of attorneys in state government, including the use of general counsel within state agencies, the use of private attorneys, and the use of attorneys in the Department of Justice (DOJ).

The use of attorneys and legal professionals is widespread throughout North Carolina state government. Attorneys work in all branches of state government. Concentrating on traditional, state-level attorney positions, the Program Evaluation Division examined 719 attorney positions with total budgeted salaries of \$67.7 million at 34 state government organizations.

All of the 21 principal departments in North Carolina state government have at least one in-house general counsel or a similar attorney position. At a minimum, the general counsel is responsible for ensuring that the organizational head acts within the law. The role of general counsel in state government has expanded in recent decades in a manner similar to that witnessed within corporations and law firms.

One of the responsibilities of the Attorney General, who heads the Department of Justice, is to represent all state departments, agencies, institutions, commissions, bureaus, and other organized activities of the State that receive support, in whole or in part, from the State. As of September 15, 2017, DOJ had 304 attorney positions with total budgeted salaries of \$27.6 million. Because only 42% of the 719 positions examined by the Program Evaluation Division are under the control of DOJ, the State's system of attorney allocation can be characterized as being decentralized.

North Carolina state entities are able to use private attorneys for legal assistance in some instances. For example, the Governor's Office may use private attorneys for representation in litigation, and the General Assembly has the right to seek independent representation. In addition, state organizations may employ private counsel when given explicit approval from the Governor's Office or from the General Assembly. The 2017 Appropriations Act stipulated that no state funds shall be withdrawn from the state treasury to pay for litigation services provided by private counsel except as expressly authorized by an appropriation of the General Assembly.