

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 109
98TH GENERAL ASSEMBLY

0470H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 105.716, RSMo, and to enact in lieu thereof two new sections relating to state departments and agencies.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 105.716, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 105.264 and 105.716, to read as follows:

105.264. 1. As used in this section, the following words shall mean:

(1) "Administrative leave", time off without charge to any annual or sick leave or loss of pay due to misconduct or investigation of misconduct of an employee;

(2) "Employee", an individual who is employed by a department or division of the state, agency of the state, instrumentality of the state or political subdivision of the state, or school district;

(3) "Employer", any department or division of the state, agency of the state, instrumentality of the state or political subdivision of the state, or any school district.

2. Notwithstanding any provision of law, if an employer places an employee on administrative leave, a hearing shall be held within thirty days from the date the employee was placed on such leave to determine if the employee engaged in the misconduct.

3. Within three days of being placed on administrative leave, an employee shall be advised in writing the specific reason or reasons for being placed on administrative leave.

105.716. 1. Any investigation, defense, negotiation, or compromise of any claim covered by sections 105.711 to 105.726 shall be conducted by the attorney general[;] . Provided, **however**, that in the case of any claim against the department of conservation, the department of transportation or a public institution which awards baccalaureate degrees, or any officer or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

5 employee of such department or such institution, any investigation, defense, negotiation, or
6 compromise of any claim covered by sections 105.711 to 105.726 shall be conducted by legal
7 counsel provided by the respective entity against which the claim is made or which employs the
8 person against whom the claim is made. **In such cases where the investigation, defense,
9 negotiation, or compromise of a claim covered by sections 105.711 to 105.726 is conducted
10 by the legal counsel of a public institution which awards baccalaureate degrees, decisions
11 regarding settlement of a claim shall be reserved exclusively to the discretion of the
12 attorney general, and in accordance with subsection 5 of section 105.711, payments for any
13 claim shall not be made from the state legal expense fund without the approval of the
14 attorney general. If the attorney general refuses to approve a settlement offer
15 recommended for acceptance by a public institution which awards baccalaureate degrees,
16 then the attorney general may, at the request of the public institution which awards
17 baccalaureate degrees, assume all responsibility of the investigation, defense, negotiation,
18 and compromise of the claim against the public institution which awards baccalaureate
19 degrees from that point forward. The settlement of a claim against a public institution
20 which awards baccalaureate degrees that does not involve funds from the state legal
21 expense fund is not subject to the approval of the attorney general or the provisions of this
22 section.**

23 **2.** In the case of any payment from the state legal expense fund based upon a claim or
24 judgment against the department of conservation, the department of transportation or any officer
25 or employee thereof, the department so affected shall immediately transfer to the state legal
26 expense fund from the department funds a sum equal to the amount expended from the state legal
27 expense fund on its behalf.

28 [2.] **3.** All persons and entities protected by the state legal expense fund shall cooperate
29 with the attorneys conducting any investigation and preparing any defense under the provisions
30 of sections 105.711 to 105.726 by assisting such attorneys in all respects, including the making
31 of settlements, the securing and giving of evidence, and the attending and obtaining witness to
32 attend hearings and trials. Funds in the state legal expense fund shall not be used to pay claims
33 and judgments against those persons and entities who do not cooperate as required by this
34 subsection.

35 [3.] **4.** The provisions of sections 105.711 to 105.726 notwithstanding, the attorney
36 general may investigate, defend, negotiate, or compromise any claim covered by sections
37 105.711 to 105.726 against any public institution which awards baccalaureate degrees whose
38 governing body has declared a state of financial exigency.

39 [4.] **5.** Notwithstanding the provisions of subsection 2 of section 105.711, funds in the
40 state legal expense fund may be expended prior to the payment of any claim or any final

41 judgment to pay costs of defense, including reasonable attorney's fees for retention of legal
42 counsel, when the attorney general determines that a conflict exists or particular expertise is
43 required, and also to pay for related legal expenses including medical examination fees, expert
44 witness fees, court reporter expenses, travel costs and ancillary legal expenses incurred prior to
45 the payment of a claim or any final judgment.

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