

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 109
98TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, March 17, 2015, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 109, adopted March 31, 2015.

Taken up for Perfection March 31, 2015. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

0470S.02P

AN ACT

To repeal section 105.716, RSMo, and to enact in lieu thereof one new section relating to the state legal expense fund.

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

Section A. Section 105.716, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 105.716, to read as follows:

105.716. 1. Any investigation, defense, negotiation, or compromise of any
2 claim covered by sections 105.711 to 105.726 shall be conducted by the attorney
3 general[;]. Provided, **however**, that in the case of any claim against the
4 department of conservation, the department of transportation or a public
5 institution which awards baccalaureate degrees, or any officer or employee of
6 such department or such institution, any investigation, defense, negotiation, or
7 compromise of any claim covered by sections 105.711 to 105.726 shall be
8 conducted by legal counsel provided by the respective entity against which the
9 claim is made or which employs the person against whom the claim is made. **In**
10 **such cases where the investigation, defense, negotiation, or compromise**
11 **of a claim covered by sections 105.711 to 105.726 is conducted by the**
12 **legal counsel of a public institution which awards baccalaureate**
13 **degrees, decisions regarding settlement of a claim shall be reserved**
14 **exclusively to the discretion of the attorney general, and in accordance**
15 **with subsection 5 of section 105.711, payments for any claim shall not**
16 **be made from the state legal expense fund without the approval of the**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 attorney general. If the attorney general refuses to approve a
18 settlement offer recommended for acceptance by a public institution
19 which awards baccalaureate degrees, then the attorney general may, at
20 the request of the public institution which awards baccalaureate
21 degrees, assume all responsibility of the investigation, defense,
22 negotiation, and compromise of the claim against the public institution
23 which awards baccalaureate degrees from that point forward. The
24 settlement of a claim against a public institution which awards
25 baccalaureate degrees that does not involve funds from the state legal
26 expense fund is not subject to the approval of the attorney general or
27 the provisions of this section.

28 **2.** In the case of any payment from the state legal expense fund based
29 upon a claim or judgment against the department of conservation, the department
30 of transportation or any officer or employee thereof, the department so affected
31 shall immediately transfer to the state legal expense fund from the department
32 funds a sum equal to the amount expended from the state legal expense fund on
33 its behalf.

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

42 **[3.] 4.** The provisions of sections 105.711 to 105.726 notwithstanding, the
43 attorney general may investigate, defend, negotiate, or compromise any claim
44 covered by sections 105.711 to 105.726 against any public institution which
45 awards baccalaureate degrees whose governing body has declared a state of
46 financial exigency.

47 **[4.] 5.** Notwithstanding the provisions of subsection 2 of section 105.711,
48 funds in the state legal expense fund may be expended prior to the payment of
49 any claim or any final judgment to pay costs of defense, including reasonable
50 attorney's fees for retention of legal counsel, when the attorney general
51 determines that a conflict exists or particular expertise is required, and also to
52 pay for related legal expenses including medical examination fees, expert witness

53 fees, court reporter expenses, travel costs and ancillary legal expenses incurred
54 prior to the payment of a claim or any final judgment.

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Unofficial

Bill

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