

FIRST REGULAR SESSION

# HOUSE BILL NO. 1000

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCCANN BEATTY.

2057H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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*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Section A. Section 105.716, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.716, to read as follows: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 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 employee of such department or such institution, any investigation, defense, negotiation, or compromise of any claim covered by sections 105.711 to 105.726 shall be conducted by legal counsel provided by the respective entity against which the claim is made or which employs the person against whom the claim is made. **In such cases where the investigation, defense, negotiation, or compromise of a claim covered by sections 105.711 to 105.726 is conducted by the legal counsel of a public institution which awards baccalaureate degrees, decisions regarding settlement of a claim shall be reserved exclusively to the discretion of the attorney general, and in accordance with subsection 5 of section 105.711, payments for any claim shall not be made from the state legal expense fund without the approval of the attorney general. If the attorney general refuses to approve a settlement offer recommended for acceptance by a public institution which awards baccalaureate degrees, then the attorney general may, at the request of the public institution which awards baccalaureate degrees, assume all responsibility of the investigation, defense, negotiation,**

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.

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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