

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

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, February 26, 2015, with recommendation that the Senate Committee Substitute do pass.

0470S.02C

ADRIANE D. CROUSE, Secretary.

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Section A. Section 105.716, RSMo, is repealed and one new section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**
17 **attorney general. If the attorney general refuses to approve a**
18 **settlement offer, then the attorney general shall assume all**

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

19 responsibility of the investigation, defense, negotiation, and
20 compromise of the claim against the public institution which awards
21 baccalaureate degrees from that point forward. The settlement of a
22 claim against a public institution which awards baccalaureate degrees
23 that does not involve funds from the state legal expense fund is not
24 subject to the approval of the attorney general or the provisions of this
25 section.

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

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

40 **[3.] 4.** The provisions of sections 105.711 to 105.726 notwithstanding, the
41 attorney general may investigate, defend, negotiate, or compromise any claim
42 covered by sections 105.711 to 105.726 against any public institution which
43 awards baccalaureate degrees whose governing body has declared a state of
44 financial exigency.

45 **[4.] 5.** Notwithstanding the provisions of subsection 2 of section 105.711,
46 funds in the state legal expense fund may be expended prior to the payment of
47 any claim or any final judgment to pay costs of defense, including reasonable
48 attorney's fees for retention of legal counsel, when the attorney general
49 determines that a conflict exists or particular expertise is required, and also to
50 pay for related legal expenses including medical examination fees, expert witness
51 fees, court reporter expenses, travel costs and ancillary legal expenses incurred
52 prior to the payment of a claim or any final judgment.