

SECOND REGULAR SESSION

# SENATE BILL NO. 1104

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAEFER.

Read 1st time February 29, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6710S.011

## 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Section A. Section 105.716, RSMo, is repealed and one new section  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.** In the case of any payment from the state legal expense fund  
18 based upon a claim or judgment against the department of conservation, the  
19 department of transportation or any officer or employee thereof, the department

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

20 so affected shall immediately transfer to the state legal expense fund from the  
21 department funds a sum equal to the amount expended from the state legal  
22 expense fund on its behalf.

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

31           3. The provisions of sections 105.711 to 105.726 notwithstanding, the  
32 attorney general may investigate, defend, negotiate, or compromise any claim  
33 covered by sections 105.711 to 105.726 against any public institution which  
34 awards baccalaureate degrees whose governing body has declared a state of  
35 financial exigency.

36           4. Notwithstanding the provisions of subsection 2 of section 105.711, funds  
37 in the state legal expense fund may be expended prior to the payment of any  
38 claim or any final judgment to pay costs of defense, including reasonable  
39 attorney's fees for retention of legal counsel, when the attorney general  
40 determines that a conflict exists or particular expertise is required, and also to  
41 pay for related legal expenses including medical examination fees, expert witness  
42 fees, court reporter expenses, travel costs and ancillary legal expenses incurred  
43 prior to the payment of a claim or any final judgment.

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