

Bill No. CS for SB 2448

Amendment No. 3

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 The Committee on Governmental Oversight and Productivity  
 12 recommended the following amendment:

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 14 **Senate Amendment (with title amendment)**  
 15 On page 17, between lines 9 and 10,  
 16  
 17 insert:

18 Section 19. Subsection (2) of section 455.209, Florida  
 19 Statutes, is amended to read:

20 455.209 Accountability and liability of board  
 21 members.--

22 (2) Each board member and each former board member  
 23 serving on a probable cause panel shall be exempt from civil  
 24 liability for any act or omission when acting in the member's  
 25 official capacity, and the board, through its legal counsel  
 26 ~~department, or the Department of Legal Affairs~~ shall defend  
 27 any such member in any action against any board or member of  
 28 a board arising from any such act or omission. In addition,  
 29 board, through its legal counsel ~~department or the Department~~  
 30 ~~of Legal Affairs~~ may defend the member's company or business  
 31 in any action against the company or business if the board

Bill No. CS for SB 2448Amendment No. 3

1 ~~department or the Department of Legal Affairs~~ determines that  
2 the actions from which the suit arises are actions taken by  
3 the member in the member's official capacity and were not  
4 beyond the member's statutory authority. In providing such  
5 defense, the board ~~department or the Department of Legal~~  
6 ~~Affairs~~ may employ or utilize additional ~~the~~ legal services  
7 pursuant to s. 287.059 of outside counsel. Fees and costs of  
8 such counsel by the Department of Legal Affairs or independent  
9 legal counsel approved pursuant to s. 287.059, F.S., shall be  
10 paid from the Professional Regulation Trust Fund, subject to  
11 the provisions of ss. 455.219 and 215.37, F.S.

12 Section 20. Paragraphs (a) and (b) of subsection (1)  
13 of section 455.221, Florida Statutes, are created to read:

14 455.221 Legal and investigative services.--

15 (1) A board shall retain, through the department's  
16 contract procedures, board counsel from the Department of  
17 Legal Affairs. The Department of Legal Affairs shall provide  
18 legal services to each board within the Department of Business  
19 and Professional Regulation, but the primary responsibility of  
20 the Department of Legal Affairs shall be to represent the  
21 interests of the citizens of the state by vigorously  
22 counseling the boards with respect to their obligations under  
23 the laws of the state. A board shall provide for the periodic  
24 review and evaluation of the services provided by its board  
25 counsel. Subject to the prior approval of the Attorney  
26 General, any board may retain, through the department's  
27 contract procedures, independent legal counsel to provide  
28 legal advice to the board on a specific matter. Fees and costs  
29 of such counsel by the Department of Legal Affairs or  
30 independent legal counsel approved by the Attorney General  
31 shall be paid from the Professional Regulation Trust Fund. All

Bill No. CS for SB 2448Amendment No. 3

1 contracts for independent counsel shall provide for periodic  
2 review and evaluation by the board and the department of  
3 services provided.

4 (a) If the Attorney General agrees to represent a  
5 board, that board shall retain board counsel from the  
6 Department of Legal Affairs. In the event the Attorney General  
7 declines to provide legal representation to that board either  
8 generally or as to a specific matter, then, subject to the  
9 provisions of s. 287.059, F.S., the board may retain  
10 independent legal counsel to provide legal representation to  
11 the board generally or as to the specific matter, as  
12 authorized. When the Department of Legal Affairs or  
13 independent legal counsel contracts to provide legal services  
14 to the boards as set forth herein, the primary responsibility  
15 of counsel shall be to represent the interests of the citizens  
16 of the state. A board shall provide for the periodic review  
17 and evaluation of the services provided by its board counsel.

18 (b) Fees and costs of such counsel by the Department  
19 of Legal Affairs or independent legal counsel approved  
20 pursuant to s. 287.059, F.S., shall be paid from the  
21 Professional Regulation Trust Fund, subject to the provisions  
22 of ss. 455.219 and 215.37, F.S.

23 Section 21. Paragraphs (a) and (b) of subsection (1)  
24 of section 455.594, Florida Statutes, are created to read:

25 455.594 Legal and investigative services.--

26 (1) A board shall retain, through the department's  
27 contract procedures, board counsel from the Department of  
28 Legal Affairs. The Department of Legal Affairs shall provide  
29 legal services to each board within the Department of Health,  
30 but the primary responsibility of the Department of Legal  
31 Affairs shall be to represent the interests of the citizens of

Bill No. CS for SB 2448Amendment No. 3

1 the state by vigorously counseling the boards with respect to  
2 their obligations under the laws of the state. A board shall  
3 provide for the periodic review and evaluation of the services  
4 provided by its board counsel. Subject to the prior approval  
5 of the Attorney General, any board may retain, through the  
6 department's contract procedures, independent legal counsel to  
7 provide legal advice to the board on a specific matter. Fees  
8 and costs of such counsel by the Department of Legal Affairs  
9 or independent legal counsel approved by the Attorney General  
10 shall be paid from a trust fund used by the department to  
11 implement this part. All contracts for independent counsel  
12 shall provide for periodic review and evaluation by the board  
13 and the department of services provided.

14 (a) If the Attorney General agrees to represent a  
15 board, that board shall retain board counsel from the  
16 Department of Legal Affairs. In the event the Attorney General  
17 declines to provide legal representation to the board either  
18 generally or as to a specific matter, then, subject to the  
19 provisions of s. 287.059, F.S., the board may retain  
20 independent legal counsel to provide legal representation to  
21 the board generally or as to the specific matter, as  
22 authorized. When the Department of Legal Affairs or  
23 independent legal counsel contracts to provide legal services  
24 to the boards as set forth herein, the primary responsibility  
25 of counsel shall be to represent the interests of the citizens  
26 of the state. A board shall provide for the periodic review  
27 and evaluation of the services provided by its board counsel.

28 (b) Fees and costs of such counsel by the Department  
29 of Legal Affairs or independent legal counsel approved  
30 pursuant to s. 287.059, F.S., shall be paid from a trust fund  
31 used by the Department to implement this part.

Bill No. CS for SB 2448

Amendment No. 3

1           Section 22. Subsection (2) of section 455.541, Florida  
2 Statutes, is amended to read:

3           455.541 Accountability and liability of board  
4 members.--

5           (2) Each board member and each former board member  
6 serving on a probable cause panel shall be exempt from civil  
7 liability for any act or omission when acting in the member's  
8 official capacity, and the board, through its legal counsel  
9 ~~department or the Department of Legal Affairs~~ shall defend any  
10 such member in any action against any board or member of a  
11 board arising from any such act or omission. In addition, the  
12 board, through its legal counsel ~~department or the Department~~  
13 ~~of Legal Affairs~~ may defend the member's company or business  
14 in any action against the company or business if the board  
15 ~~department or the Department of Legal Affairs~~ determines that  
16 the actions from which the suit arises are actions taken by  
17 the member in the member's official capacity and were not  
18 beyond the member's statutory authority. In providing such  
19 defense, the board ~~department or the Department of Legal~~  
20 ~~Affairs~~ may employ or utilize additional ~~the~~ legal services  
21 pursuant to s. 287.059 of outside counsel. Fees and costs of  
22 such counsel by the Department of Legal Affairs or independent  
23 legal counsel approved pursuant to s. 287.059, F.S., shall be  
24 paid from a trust fund used by the Department to implement  
25 this part.

26  
27 (Redesignate subsequent sections.)

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30 ===== T I T L E   A M E N D M E N T =====

31 And the title is amended as follows:

Bill No. CS for SB 2448

Amendment No. 3

1           On page 3, line 10, after the semicolon  
2  
3 insert:  
4           amending s. 455,209, F.S., eliminating a  
5           requirement for a board to contract for legal  
6           services with the Department of Legal Affairs;  
7           amending s. 455.221, F.S.; providing that if  
8           the Department of Legal Affairs does not  
9           provide counsel to a board that a board may  
10          retain independent legal counsel; amending s.  
11          455.594, F.S., providing that if the Department  
12          of Legal Affairs does not provide counsel to a  
13          board that the board may retain independent  
14          legal counsel; amending s. 455.541, F.S.,  
15          eliminating a requirement for a board to  
16          contract for legal services with the Department  
17          of Legal Affairs;  
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