

By Senator Wise

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1 A bill to be entitled
2 An act relating to state attorneys; amending s. 17.61,
3 F.S.; requiring that state attorneys retain moneys in
4 their respective trust funds for investment, with
5 interest appropriated to the General Revenue Fund;
6 amending s. 27.25, F.S.; requiring state attorneys of all
7 judicial circuits to jointly develop a coordinated
8 classification and pay plan and to have the State
9 Attorneys Administration Office submit the plan by a
10 specified date to the President of the Senate and the
11 Speaker of the House of Representatives; amending s.
12 27.34, F.S.; requiring that payments by the state
13 attorney received for persons employed by a county or
14 municipality but serving as special investigators be
15 deposited into the Grants and Donations Trust Fund for
16 the state attorney; creating s. 27.375, F.S.; creating
17 the State Attorneys Administration Office; providing for
18 a location and office space; providing for personnel
19 classifications; providing for duties and
20 responsibilities; amending ss. 27.52 and 57.082, F.S.;
21 providing that a specified percentage of any amount
22 recovered by a state attorney as reasonable value of the
23 services rendered to a defendant who misrepresented his
24 or her status as an indigent must be deposited into the
25 Grants and Donations Trust Fund for the State Attorneys
26 Administration Office; amending s. 40.29, F.S.; requiring
27 each clerk of the circuit court to forward to the State
28 Attorneys Administration Office a quarterly estimate of
29 funds necessary to pay for ordinary witnesses, including

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30 witnesses in civil traffic cases and witnesses of the
31 state attorney; amending s. 40.33, F.S.; requiring that
32 the clerk of court ask the State Attorneys Administration
33 Office to pay for certain specified services if a county
34 is deficient in its resources; amending s. 40.361, F.S.;
35 providing that all laws of this state relating to state
36 budgeting and financing apply to all court processes
37 authorized or required for the payment of named court
38 services; amending ss. 43.16 and 112.0455, F.S.; removing
39 state attorneys from membership on and the jurisdiction
40 of the Justice Administrative Commission; amending s.
41 110.112, F.S.; requiring each state attorney to report
42 annually to the State Attorneys Administration Office on
43 the implementation, continuance, updating, and results of
44 his or her affirmative action program for the previous
45 fiscal year; amending s. 501.2101, F.S.; requiring that
46 certain funds be deposited in the Consumer Frauds Trust
47 Fund of the applicable state attorney for consumer
48 litigation; amending s. 985.045, F.S.; requiring the
49 clerk of court to keep all official records required for
50 juvenile delinquents separate from other records of the
51 circuit court but allowing state attorneys access to the
52 records; providing an effective date.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. Paragraph (c) of subsection (3) of section
57 17.61, Florida Statutes, is amended to read:

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58 17.61 Chief Financial Officer; powers and duties in the
59 investment of certain funds.--

60 (3)

61 (c) Except as provided in this paragraph and except for
62 moneys described in paragraph (d), the following agencies shall
63 not invest trust fund moneys as provided in this section, but
64 shall retain such moneys in their respective trust funds for
65 investment, with interest appropriated to the General Revenue
66 Fund, pursuant to s. 17.57:

67 1. The Agency for Health Care Administration, except for
68 the Tobacco Settlement Trust Fund.

69 2. The Agency for Persons with Disabilities, except for:

70 a. The Federal Grants Trust Fund.

71 b. The Tobacco Settlement Trust Fund.

72 3. The Department of Children and Family Services, except
73 for:

74 a. The Alcohol, Drug Abuse, and Mental Health Trust Fund.

75 b. The Refugee Assistance Trust Fund.

76 c. The Social Services Block Grant Trust Fund.

77 d. The Tobacco Settlement Trust Fund.

78 e. The Working Capital Trust Fund.

79 4. The Department of Community Affairs, only for the
80 Operating Trust Fund.

81 5. The Department of Corrections.

82 6. The Department of Elderly Affairs, except for:

83 a. The Federal Grants Trust Fund.

84 b. The Tobacco Settlement Trust Fund.

85 7. The Department of Health, except for:

86 a. The Federal Grants Trust Fund.

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- 87 b. The Grants and Donations Trust Fund.
88 c. The Maternal and Child Health Block Grant Trust Fund.
89 d. The Tobacco Settlement Trust Fund.
90 8. The Department of Highway Safety and Motor Vehicles,
91 only for:
92 a. The DUI Programs Coordination Trust Fund.
93 b. The Security Deposits Trust Fund.
94 9. The Department of Juvenile Justice.
95 10. The Department of Law Enforcement.
96 11. The Department of Legal Affairs.
97 12. The Department of State, only for:
98 a. The Grants and Donations Trust Fund.
99 b. The Records Management Trust Fund.
100 13. The Executive Office of the Governor, only for:
101 a. The Economic Development Transportation Trust Fund.
102 b. The Economic Development Trust Fund.
103 14. The Florida Public Service Commission, only for the
104 Florida Public Service Regulatory Trust Fund.
105 15. The Justice Administrative Commission.
106 16. The state courts system.
107 17. The state attorneys.

108 Section 2. Subsection (1) of section 27.25, Florida
109 Statutes, is amended to read:

110 27.25 State attorney authorized to employ personnel;
111 funding formula.--

112 (1) The state attorney of each judicial circuit is
113 authorized to employ and establish, in such number as is
114 authorized by the General Appropriations Act, assistant state
115 attorneys and other staff pursuant to s. 29.005. The state

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116 attorneys of all judicial circuits shall jointly develop a
117 coordinated classification and pay plan that ~~which~~ shall be
118 submitted by the State Attorneys Administration Office on or
119 before January 1 of each year to the ~~Justice Administrative~~
120 ~~Commission, the office of the~~ President of the Senate, ~~and the~~
121 ~~office of the~~ Speaker of the House of Representatives. The ~~Such~~
122 plan shall be developed in accordance with policies and
123 procedures of the Executive Office of the Governor established
124 pursuant to s. 216.181.

125 Section 3. Paragraph (c) of subsection (1) of section
126 27.34, Florida Statutes, is amended to read:

127 27.34 Limitations on payment of salaries and other related
128 costs of state attorneys' offices other than by the state.--

129 (1) A county or municipality may contract with, or
130 appropriate or contribute funds to the operation of, the various
131 state attorneys as provided in this subsection. A state attorney
132 prosecuting violations of special laws or county or municipal
133 ordinances punishable by incarceration and not ancillary to a
134 state charge shall contract with counties and municipalities to
135 recover the full cost of services rendered on an hourly basis or
136 reimburse the state for the full cost of assigning one or more
137 full-time equivalent attorney positions to work on behalf of the
138 county or municipality. Notwithstanding any other provision of
139 law, in the case of a county with a population of less than
140 75,000, the state attorney shall contract for full reimbursement,
141 or for reimbursement as the parties otherwise agree.

142 (c) Persons employed by the county or municipality may be
143 provided to the state attorney to serve as special investigators
144 pursuant to the provisions of s. 27.251. Any payments received

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145 pursuant to this subsection shall be deposited into the Grants
146 and Donations Trust Fund for that state attorney ~~within the~~
147 ~~Justice Administrative Commission for appropriation by the~~
148 ~~Legislature.~~

149 Section 4. Section 27.375, Florida Statutes, is created to
150 read:

151 27.375 State Attorneys Administration Office; authorization
152 to employ; duties.--

153 (1) (a) There is created the State Attorneys Administration
154 Office located in Tallahassee. The office shall exercise the
155 duties and responsibilities that are specified in this section.

156 (b) The state attorney of each judicial circuit is a member
157 of the administration and shall hold his or her position and
158 authority in an ex officio capacity.

159 (c) The Department of Management Services shall supply the
160 necessary office space for use by the State Attorneys
161 Administration Office. For purposes of the fees imposed on
162 agencies pursuant to s. 287.057(23), the office is exempt from
163 such fees.

164 (2) (a) All employees of the State Attorneys Administration
165 Office are exempt from the Career Service System provided in
166 chapter 110 and, notwithstanding s. 110.205(5), are not included
167 in the Senior Management Service or the Selected Exempt Service.

168 (b) The State Attorneys Administration Office is subject to
169 the classification and pay plan for state attorneys set forth in
170 s. 27.25(1) and approved annually by the state attorneys.

171 (3) The State Attorneys Administration Office is
172 responsible for, but is not limited to:

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173 (a) Maintaining a central state office for administrative
174 services and assistance to and on behalf of the state attorneys
175 of this state.

176 (b) Assisting state attorneys in preparing budget requests,
177 voucher schedules, and other forms and reports, as required by
178 law. Each state attorney shall prepare necessary circuit budgets,
179 vouchers that represent valid claims for reimbursement from the
180 state for authorized expenses, and other documents incidental to
181 the proper administration of the state attorney's office and
182 shall forward them to the State Attorneys Administration Office
183 for recording and submission to the proper state officer.

184 (4) Any duty assigned to the State Attorneys Administration
185 Office is considered to be for a valid public purpose.

186 (5) Chapter 120 does not apply to the State Attorneys
187 Administration Office.

188 Section 5. Paragraph (b) of subsection (7) of section
189 27.52, Florida Statutes, is amended to read:

190 27.52 Determination of indigent status.--

191 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION.--

192 (b) If the court has reason to believe that any applicant,
193 through fraud or misrepresentation, was improperly determined to
194 be indigent or indigent for costs, the matter shall be referred
195 to the state attorney. Twenty-five percent of any amount
196 recovered by the state attorney as reasonable value of the
197 services rendered, including fees, charges, and costs paid by the
198 state on the person's behalf, shall be remitted to the Department
199 of Revenue for deposit into the Grants and Donations Trust Fund
200 within the State Attorneys Administration Office ~~Justice~~
201 ~~Administrative Commission~~. Seventy-five percent of any amount

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202 recovered shall be remitted to the Department of Revenue for
203 deposit into the General Revenue Fund.

204 Section 6. Section 40.29, Florida Statutes, is amended to
205 read:

206 40.29 Payment of due-process costs.--

207 (1) (a) Each clerk of the circuit court, on behalf of the
208 courts, ~~the state attorney,~~ court-appointed counsel, and the
209 public defender, shall forward to the Justice Administrative
210 Commission, by county, a quarterly estimate of funds necessary to
211 pay for ordinary witnesses of the, ~~including, but not limited to,~~
212 ~~witnesses in civil traffic cases and witnesses of the state~~
213 ~~attorney,~~ public defender, court-appointed counsel, and persons
214 determined to be indigent for costs. Each quarter of the state
215 fiscal year, the commission, based upon the estimates, shall
216 advance funds to each clerk to pay for these ordinary witnesses
217 from state funds specifically appropriated for the payment of
218 ordinary witnesses.

219 (b) Each clerk of the circuit court shall forward to the
220 State Attorneys Administration Office, by county, a quarterly
221 estimate of funds necessary to pay for ordinary witnesses,
222 including, but not limited to, witnesses in civil traffic cases
223 and witnesses of the state attorney.

224 (c) ~~(b)~~ Each clerk of the circuit court shall forward to the
225 Office of the State Courts Administrator, by county, a quarterly
226 estimate of funds necessary to pay juror compensation.

227 (2) Upon receipt of an estimate pursuant to subsection (1),
228 the Justice Administrative Commission, the State Attorneys
229 Administration Office, or Office of State Courts Administrator,
230 as applicable, shall endorse the amount deemed necessary for

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231 payment by the clerk of the court during the quarterly fiscal
232 period and shall submit a request for payment to the Chief
233 Financial Officer.

234 (3) Upon receipt of the funds from the Chief Financial
235 Officer, the clerk of the court shall pay all invoices approved
236 and submitted by the state attorney, public defender, and circuit
237 court administrator for the items enumerated in paragraphs
238 (1) (a), (b), and (c) ~~(1) (a) and (b)~~.

239 (4) After review for compliance with applicable rates and
240 requirements, the Justice Administrative Commission shall pay all
241 due process service related invoices, except those enumerated in
242 paragraphs (1) (a), (b), and (c) ~~(1) (a) and (b)~~, approved and
243 submitted by the ~~state attorney~~, public defender, or court-
244 appointed counsel in accordance with the applicable requirements
245 of ss. ~~29.005~~, 29.006, and 29.007.

246 Section 7. Section 40.33, Florida Statutes, is amended to
247 read:

248 40.33 Deficiency.--If the funds required for payment of the
249 items enumerated in s. 40.29(1) (a), (b), or (c) ~~s. 40.29(1) (a) or~~
250 ~~(b)~~ in any county during a quarterly fiscal period exceed ~~exceeds~~
251 the amount of the funds provided pursuant to s. 40.29(3), the
252 ~~state attorney or public defender, as applicable~~, shall make a
253 further request upon the Justice Administrative Commission for
254 the items enumerated in s. 40.29(1) (a) or the clerk of court
255 shall make a further request upon the Office of the State Courts
256 Administrator or the State Attorneys Administration Office, as
257 applicable, for items enumerated in s. 40.29(1) (b) and (c) ~~s.~~
258 ~~40.29(1) (b)~~ for the amount necessary to allow for full payment.

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259 Section 8. Section 40.361, Florida Statutes, is amended to
260 read:

261 40.361 Applicability of laws regarding state budgeting and
262 finances.--The requirements contained within chapter 216,
263 including ~~the provisions of s. 216.192~~ related to release of
264 funds, chapter 29, including ss. 29.015 and 29.016 related to use
265 of contingency funds for due process services, and all other laws
266 of this state relating to state budgeting and financing ~~shall~~
267 apply to all processes authorized or required under this chapter
268 for the payment of the items enumerated in s. 40.29(1)(a), (b),
269 and (c) ~~s. 40.29(1)(a) and (b)~~.

270 Section 9. Subsections (2), (5), and (6) of section 43.16,
271 Florida Statutes, are amended to read:

272 43.16 Justice Administrative Commission; membership, powers
273 and duties.--

274 (2) Members of the Justice Administrative Commission shall
275 serve for a period of 2 years, with the terms of each dating from
276 July 1, 1985, except that initially, ~~one state attorney member~~
277 ~~and~~ one public defender member shall ~~each~~ serve a 1-year term.
278 ~~Members shall be selected in the following manner:~~

279 ~~(a) Two state attorneys, to be appointed by the president~~
280 ~~of the Florida Prosecuting Attorneys Association.~~

281 ~~(b) Two public defenders shall, to be appointed by the~~
282 president of the Florida Public Defender Association.

283 (5) The duties of the commission shall include, but not be
284 limited to, the following:

285 (a) The maintenance of a central state office for
286 administrative services and assistance when possible to and on
287 behalf of ~~the state attorneys and~~ public defenders of Florida,

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288 the capital collateral regional counsel of Florida, the criminal
289 conflict and civil regional counsel, and the Guardian Ad Litem
290 Program.

291 (b) Each ~~state attorney,~~ public defender, ~~and criminal~~
292 conflict and civil regional counsel and the Guardian Ad Litem
293 Program shall continue to prepare necessary budgets, vouchers
294 that represent valid claims for reimbursement by the state for
295 authorized expenses, and other things incidental to the proper
296 administrative operation of the office, such as revenue
297 transmittals to the Chief Financial Officer and automated systems
298 plans, but will forward same to the commission for recording and
299 submission to the proper state officer. However, when requested
300 by ~~a state attorney,~~ a public defender, a criminal conflict and
301 civil regional counsel, or the Guardian Ad Litem Program, the
302 commission will either assist in the preparation of budget
303 requests, voucher schedules, and other forms and reports or
304 accomplish the entire project involved.

305 (6) This ~~The provisions contained in this section is shall~~
306 ~~be~~ supplemental to those of chapter 27 ~~relating to state~~
307 ~~attorneys,~~ public defenders, criminal conflict and civil regional
308 counsel, and capital collateral regional counsel; to those of
309 chapter 39 ~~relating to the Guardian Ad Litem Program;~~ or to
310 other laws pertaining hereto.

311 Section 10. Paragraph (b) of subsection (7) of section
312 57.082, Florida Statutes, is amended to read:

313 57.082 Determination of civil indigent status.--

314 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION.--

315 (b) If the court has reason to believe that any applicant,
316 through fraud or misrepresentation, was improperly determined to

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317 | be indigent, the matter shall be referred to the state attorney.
318 | Twenty-five percent of any amount recovered by the state attorney
319 | as reasonable value of the services rendered, including fees,
320 | charges, and costs paid by the state on the person's behalf,
321 | shall be remitted to the Department of Revenue for deposit into
322 | the Grants and Donations Trust Fund within the State Attorneys
323 | Administration Office ~~Justice Administrative Commission~~. Seventy-
324 | five percent of any amount recovered shall be remitted to the
325 | Department of Revenue for deposit into the General Revenue Fund.

326 | Section 11. Paragraph (d) of subsection (3) of section
327 | 110.112, Florida Statutes, is amended to read:

328 | 110.112 Affirmative action; equal employment opportunity.--

329 | (3) Each state attorney and public defender shall:

330 | (d) Report annually to the State Attorneys Administration
331 | Office or the Justice Administrative Commission, as applicable,
332 | on the implementation, continuance, updating, and results of his
333 | or her affirmative action program for the previous fiscal year.

334 | Section 12. Paragraph (e) of subsection (13) of section
335 | 112.0455, Florida Statutes, is amended to read:

336 | 112.0455 Drug-Free Workplace Act.--

337 | (13) RULES.--

338 | (e) The Justice Administrative Commission may adopt rules
339 | on behalf of the ~~state attorneys and~~ public defenders of Florida,
340 | the capital collateral regional counsel, and the Judicial
341 | Qualifications Commission.

342 |

343 | This section shall not be construed to eliminate the bargainable
344 | rights as provided in the collective bargaining process where
345 | applicable.

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346 Section 13. Subsection (1) of section 501.2101, Florida
347 Statutes, is amended to read:

348 501.2101 Enforcing authorities; moneys received in certain
349 proceedings.--

350 (1) Any moneys received by an enforcing authority for
351 attorney's fees and costs of investigation or litigation in
352 proceedings brought under the provisions of s. 501.207, s.
353 501.208, or s. 501.211 shall be deposited as received in the
354 Legal Affairs Revolving Trust Fund if the action is brought by
355 the Department of Legal Affairs, and in the Consumer Frauds Trust
356 Fund of the applicable state attorney ~~Justice Administrative~~
357 ~~Commission~~ if the action is brought by a state attorney.

358 Section 14. Subsection (2) of section 985.045, Florida
359 Statutes, is amended to read:

360 985.045 Court records.--

361 (2) The clerk shall keep all official records required by
362 this section separate from other records of the circuit court,
363 except those records pertaining to motor vehicle violations,
364 which shall be forwarded to the Department of Highway Safety and
365 Motor Vehicles. Except as provided in ss. 943.053 and
366 985.04(6)(b) and (7), official records required by this chapter
367 are not open to inspection by the public, but may be inspected
368 only upon order of the court by persons deemed by the court to
369 have a proper interest therein, except that a child and the
370 parents, guardians, or legal custodians of the child and their
371 attorneys, law enforcement agencies, the Department of Juvenile
372 Justice and its designees, the Parole Commission, the Department
373 of Corrections, state attorneys, and the Justice Administrative
374 Commission shall always have the right to inspect and copy any

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375 | official record pertaining to the child. The court may permit
376 | authorized representatives of recognized organizations compiling
377 | statistics for proper purposes to inspect, and make abstracts
378 | from, official records under whatever conditions upon the use and
379 | disposition of such records the court may deem proper and may
380 | punish by contempt proceedings any violation of those conditions.

381 | Section 15. This act shall take effect July 1, 2008.