

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

29 including witnesses in civil traffic cases and witnesses
30 of the state attorney; amending s. 40.33, F.S.; requiring
31 that the clerk of court ask the State Attorneys
32 Administration Office to pay for certain specified
33 services if a county is deficient in its resources;
34 amending s. 40.361, F.S.; providing that all laws of this
35 state relating to state budgeting and financing apply to
36 all court processes authorized or required for the payment
37 of named court services; amending ss. 43.16 and 112.0455,
38 F.S.; removing state attorneys from membership on and the
39 jurisdiction of the Justice Administrative Commission;
40 amending s. 110.112, F.S.; requiring each state attorney
41 to report annually to the State Attorneys Administration
42 Office on the implementation, continuance, updating, and
43 results of his or her affirmative action program for the
44 previous fiscal year; amending s. 501.2101, F.S.;

45 requiring that certain funds be deposited in the Consumer
46 Frauds Trust Fund of the applicable state attorney for
47 consumer litigation; amending s. 985.045, F.S.; requiring
48 the clerk of court to keep all official records required
49 for juvenile delinquents separate from other records of
50 the circuit court but allowing state attorneys access to
51 the records; providing an effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Paragraph (c) of subsection (3) of section
56 17.61, Florida Statutes, is amended to read:

57 17.61 Chief Financial Officer; powers and duties in the
 58 investment of certain funds.--

59 (3)

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

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

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

69 a. The Federal Grants Trust Fund.

70 b. The Tobacco Settlement Trust Fund.

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

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

74 b. The Refugee Assistance Trust Fund.

75 c. The Social Services Block Grant Trust Fund.

76 d. The Tobacco Settlement Trust Fund.

77 e. The Working Capital Trust Fund.

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

80 5. The Department of Corrections.

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

82 a. The Federal Grants Trust Fund.

83 b. The Tobacco Settlement Trust Fund.

84 7. The Department of Health, except for:

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

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

109 27.25 State attorney authorized to employ personnel;
 110 funding formula.--

111 (1) The state attorney of each judicial circuit is
 112 authorized to employ and establish, in such number as is

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113 authorized by the General Appropriations Act, assistant state
 114 attorneys and other staff pursuant to s. 29.005. The state
 115 attorneys of all judicial circuits shall jointly develop a
 116 coordinated classification and pay plan that ~~which~~ shall be
 117 submitted by the State Attorneys Administration Office on or
 118 before January 1 of each year to the ~~Justice Administrative~~
 119 ~~Commission, the office of the~~ President of the Senate, and the
 120 ~~office of the~~ Speaker of the House of Representatives. The ~~Such~~
 121 plan shall be developed in accordance with policies and
 122 procedures of the Executive Office of the Governor established
 123 pursuant to s. 216.181.

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

126 27.34 Limitations on payment of salaries and other related
 127 costs of state attorneys' offices other than by the state.--

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

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140 reimbursement, or for reimbursement as the parties otherwise
141 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
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;
152 authorization 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
157 member of the administration and shall hold his or her position
158 and 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
 169 to the classification and pay plan for state attorneys set forth
 170 in 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:

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

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

188 (5) Chapter 120 does not apply to the State Attorneys
 189 Administration Office.

190 Section 5. Paragraph (b) of subsection (7) of section
 191 27.52, Florida Statutes, is amended to read:

192 27.52 Determination of indigent status.--

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

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

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196 be indigent or indigent for costs, the matter shall be referred
 197 to the state attorney. Twenty-five percent of any amount
 198 recovered by the state attorney as reasonable value of the
 199 services rendered, including fees, charges, and costs paid by
 200 the state on the person's behalf, shall be remitted to the
 201 Department of Revenue for deposit into the Grants and Donations
 202 Trust Fund within the State Attorneys Administration Office
 203 ~~Justice Administrative Commission~~. Seventy-five percent of any
 204 amount recovered shall be remitted to the Department of Revenue
 205 for deposit into the General Revenue Fund.

206 Section 6. Section 40.29, Florida Statutes, is amended to
 207 read:

208 40.29 Payment of due-process costs.--

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

221 (b) Each clerk of the circuit court shall forward to the
 222 State Attorneys Administration Office, by county, a quarterly
 223 estimate of funds necessary to pay for ordinary witnesses,

224 including, but not limited to, witnesses in civil traffic cases
 225 and witnesses of the state attorney.

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

229 (2) Upon receipt of an estimate pursuant to subsection
 230 (1), the Justice Administrative Commission, State Attorneys
 231 Administration Office, or Office of State Courts Administrator,
 232 as applicable, shall endorse the amount deemed necessary for
 233 payment by the clerk of the court during the quarterly fiscal
 234 period and shall submit a request for payment to the Chief
 235 Financial Officer.

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

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

248 Section 7. Section 40.33, Florida Statutes, is amended to
 249 read:

250 40.33 Deficiency.--If the funds required for payment of
 251 the items enumerated in s. 40.29(1) (a), ~~or~~ (b), or (c) in any

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

261 Section 8. Section 40.361, Florida Statutes, is amended to
 262 read:

263 40.361 Applicability of laws regarding state budgeting and
 264 finances.--The requirements contained within chapter 216,
 265 including ~~the provisions of~~ s. 216.192 related to release of
 266 funds, chapter 29, including ss. 29.015 and 29.016 related to
 267 use of contingency funds for due process services, and all other
 268 laws of this state relating to state budgeting and financing
 269 shall apply to all processes authorized or required under this
 270 chapter for the payment of the items enumerated in s.
 271 40.29(1)(a), (b), and (c) ~~(b)~~.

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

274 43.16 Justice Administrative Commission; membership,
 275 powers and duties.--

276 (2) Members of the Justice Administrative Commission shall
 277 serve for a period of 2 years, with the terms of each dating
 278 from July 1, 1985, except that initially, ~~one state attorney~~

279 ~~member and~~ one public defender member shall ~~each~~ serve a 1-year
 280 term. ~~Members shall be selected in the following manner:~~

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

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

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

287 (a) The maintenance of a central state office for
 288 administrative services and assistance when possible to and on
 289 behalf of the ~~state attorneys and~~ public defenders of this state
 290 ~~Florida~~, the capital collateral regional counsel of this state
 291 ~~Florida~~, the criminal conflict and civil regional counsel, and
 292 the Guardian Ad Litem Program.

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

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

313 Section 10. Paragraph (b) of subsection (7) of section
 314 57.082, Florida Statutes, is amended to read:

315 57.082 Determination of civil indigent status.--

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

317 (b) If the court has reason to believe that any applicant,
 318 through fraud or misrepresentation, was improperly determined to
 319 be indigent, the matter shall be referred to the state attorney.

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

329 Section 11. Paragraph (d) of subsection (3) of section
 330 110.112, Florida Statutes, is amended to read:

331 110.112 Affirmative action; equal employment
 332 opportunity.--

333 (3) Each state attorney and public defender shall:

334 (d) Report annually to the State Attorneys Administration
 335 Office or the Justice Administrative Commission, as applicable,
 336 on the implementation, continuance, updating, and results of his
 337 or her affirmative action program for the previous fiscal year.

338 Section 12. Paragraph (e) of subsection (13) of section
 339 112.0455, Florida Statutes, is amended to read:

340 112.0455 Drug-Free Workplace Act.--

341 (13) RULES.--

342 (e) The Justice Administrative Commission may adopt rules
 343 on behalf of the ~~state attorneys and~~ public defenders of
 344 Florida, the capital collateral regional counsel, and the
 345 Judicial Qualifications Commission.

346

347 This section shall not be construed to eliminate the bargainable
 348 rights as provided in the collective bargaining process where
 349 applicable.

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

352 501.2101 Enforcing authorities; moneys received in certain
 353 proceedings.--

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

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361 ~~Administrative Commission~~ if the action is brought by a state
 362 attorney.

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

365 985.045 Court records.--

366 (2) The clerk shall keep all official records required by
 367 this section separate from other records of the circuit court,
 368 except those records pertaining to motor vehicle violations,
 369 which shall be forwarded to the Department of Highway Safety and
 370 Motor Vehicles. Except as provided in ss. 943.053 and
 371 985.04(6)(b) and (7), official records required by this chapter
 372 are not open to inspection by the public, but may be inspected
 373 only upon order of the court by persons deemed by the court to
 374 have a proper interest therein, except that a child and the
 375 parents, guardians, or legal custodians of the child and their
 376 attorneys, law enforcement agencies, the Department of Juvenile
 377 Justice and its designees, the Parole Commission, the Department
 378 of Corrections, state attorneys, and the Justice Administrative
 379 Commission shall always have the right to inspect and copy any
 380 official record pertaining to the child. The court may permit
 381 authorized representatives of recognized organizations compiling
 382 statistics for proper purposes to inspect, and make abstracts
 383 from, official records under whatever conditions upon the use
 384 and disposition of such records the court may deem proper and
 385 may punish by contempt proceedings any violation of those
 386 conditions.

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