

2016 Regular Session

SENATE BILL NO. 136

BY SENATOR WARD

JUSTICE DEPARTMENT. Provides relative to the employment of special attorneys or counsel. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 42:262(B) and (D) and R.S. 49:259(A) and (C)(2), and to repeal  
3 R.S. 49:259(D), relative to the employment of special attorneys or counsel; to  
4 provide relative to the deposit of certain proceeds recovered by the attorney general;  
5 to provide certain terms, conditions, exceptions, requirements, definitions, and  
6 procedures; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 42:262(B) and (D) are hereby amended and reenacted to read as  
9 follows:

10 §262. Special attorney or counsel

11 \* \* \*

12 B. Any recovery or award of attorney fees, including settlement, in litigation  
13 involving the attorney general or any state agency, board, or commission, not  
14 including any public postsecondary education institution, belongs to the state and  
15 shall be deposited into the state treasury into the Department of Justice Legal  
16 Support Fund in accordance with R.S. 49:259. No payment of attorney fees shall be  
17 made out of state funds in the absence of express statutory authority, including R.S.

1 17:100.10, R.S. 23:1669, R.S. 37:2153, R.S. 41:724 and 922, R.S. 42:1157.3, R.S.  
2 46:15, R.S. 47:1512, 1515.3, 1516, 1516.1, and 1676, except such payment of  
3 attorney fees as may be approved by the litigation subcommittee of the Joint  
4 Legislative Committee on the Budget ~~during the interim between legislative sessions.~~

5 \* \* \*

6 D. All contracts with any special attorney or counsel shall require the keeping  
7 of accurate records of the hours worked and the expenses incurred in the  
8 representation of the public entity. In no case shall the attorney general, or any state  
9 agency, board, or commission, not including any public postsecondary education  
10 institution, incur fees in excess of ~~five hundred~~ one thousand dollars per hour per  
11 person for legal services. ~~In the event of a settlement or final judgment which would~~  
12 ~~result in an award of attorney fees in excess of five hundred dollars per hour, the fee~~  
13 ~~amount shall be reduced to an amount equivalent to five hundred dollars per hour,~~  
14 ~~or the maximum rate approved by the Attorney Fee Review Board, whichever is~~  
15 greater.

16 \* \* \*

17 Section 2. R.S. 49:259(A) and (C)(2) are hereby amended and reenacted to read as  
18 follows:

19 §259. Department of Justice Legal Support Fund

20 A. There is hereby established in the state treasury a special fund to be known  
21 as the Department of Justice Legal Support Fund, hereinafter referred to as the  
22 "fund". The fund shall be comprised of proceeds recovered by the attorney general  
23 on behalf of the state from court judgments, settlements, fines, fees, forfeitures and  
24 penalties, from the recovery or award of any attorney fees as provided in R.S.  
25 42:262, or from proceeds recovered by the attorney general from any other source  
26 from which revenues are designated by the attorney general for deposit into the fund,  
27 except those judgments and recoveries made on or pertaining to any office of risk  
28 management litigation ~~or litigation involving the Department of Natural Resources~~  
29 ~~and the Department of Environmental Quality as provided in Subsection D of this~~

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Section.

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(2) No employee salary or wages or other expenses, to be paid from the recovery or award of any attorney fees as provided in R.S. 42:262 shall be paid by the Department of Justice, until funding is approved by **the litigation subcommittee** **of** the Joint Legislative Committee on the Budget.

\* \* \*

Section 3. R.S. 49:259(D) is hereby repealed.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ben Huxen.

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DIGEST

SB 136 Original                      2016 Regular Session                      Ward

Present law provides that no payment of attorney fees shall be made out of state funds in the absence of express statutory authority, except such payment of attorney fees as may be approved by the Joint Legislative Committee on the Budget during the interim between legislative sessions.

Proposed law eliminates that requirement and provides that the litigation subcommittee of the Joint Legislative Committee on the Budget can approve such fees at any time.

Present law provides that the attorney general, or any state agency, board, or commission, not including any public postsecondary education institution, cannot incur fees for legal services in excess of the greater of (1) \$500 per hour per person or (2) the maximum rate approved by the Attorney Fee Review Board.

Proposed law changes the limitation to \$1,000 per hour per person.

Present law exempts the proceeds of court-awarded judgments and settlements involving the Department of Natural Resources as specified in R.S. 30:136.3(B)(1) and any judgments, settlements, or recoveries which are designated for credit to the Hazardous Waste Site Cleanup Fund, the Environmental Trust Fund, or any other funds administered by the Department of Environmental Quality under the Environmental Quality Act from being deposited into the Department of Justice Legal Support Fund.

Proposed law repeals present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 42:262(B) and (D) and R.S. 49:259(A) and (C)(2); repeals R.S. 49:259(D))