

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2016-17
TO THE HOUSE WAYS AND MEANS COMMITTEE**

SECTION 57 - B040 - JUDICIAL DEPARTMENT

57.8 **AMEND** (Supreme Court Bar Admissions) Directs that bar admissions revenue in excess of the amount required to be remitted to the General Fund be deposited in a special account and authorizes the department to retain, expend, and carry forward the funds.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to delete “in excess of the amount required to be remitted to the general fund.” *The department would like to keep all Bar Admissions funds to offset the cost of the Bar Admissions Office.* Fiscal Impact: The department states it currently remits to the general fund ¼ of all funds collected by the bar admissions office. RFAO states this amendment would reduce general fund by \$67,368. Requested by Judicial Department.

57.8. (JUD: Supreme Court Bar Admissions) Any funds collected from the Supreme Court Bar Admissions Office ~~in excess of the amount required to be remitted to the general fund~~ may be deposited into an escrow account with the State Treasurer’s Office. The department is authorized to receive, expend, retain, and carry forward these funds.

57.10 **AMEND** (Interpreters) Directs that funds appropriated for interpreters be used to cover costs of interpreters in certain judicial proceedings (criminal proceedings, deaf, non-English speaking) in accordance with guidelines established by the Chief Justice. Directs that interpreters for deaf persons be obtained through the School for the Deaf and Blind unless the Chief Justice finds those services to be inadequate.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to delete the requirement that interpreters be obtained through the School for the Deaf and Blind. *The department states that it has not been feasible to contract with the school for various funding and logistical reasons. Court Administration maintains a centralized list of ASL/Sign Language Interpreters. This list is provided to the Clerks of Court to assist them in obtaining certified or otherwise qualified interpreters for court proceedings statewide.* Fiscal Impact: RFAO states this amendment would have no impact on the General Fund. Requested by Judicial Department.

57.10. (JUD: Interpreters) The funds appropriated in this section for “Interpreters” shall be used to offset costs associated with interpreters appointed in judicial proceedings under Sections 17-1-50, 15-27-155, and 15-27-15. The selection, use, and reimbursement of interpreters shall be determined under such guidelines as may be established by the Chief Justice of the Supreme Court. ~~Interpretive services for hearing impaired persons shall be obtained through contract with the South Carolina School for the Deaf and the Blind, provided that if the Chief Justice determines, for any reason, that adequate services are not available through the South Carolina School for the Deaf and the Blind, the Judicial Department may secure interpretive services from any qualified vendor.~~

57.acf **ADD** (Appellate Court Fee) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize the department to retain the funds collected as required by the SC Appellate Court Rules and to authorize these funds to be received, retained, expended, and carried forward. *The department requests to retain 100% of the filing/motions fees received for the Appellate Courts to offset operational expenses.* Fiscal Impact: RFAO states this proviso would reduce General Fund revenue by \$150,000. Requested by Judicial Department.

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57.acf. (JUD: Appellate Court Fee) The Judicial Department shall retain the funds collected as required by the SC Appellate Court Rules. The department is authorized to receive, expend, retain, and carry forward these funds which shall be used by the department.

57.itc **ADD** (Interpreter Training and Certification) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize the department to collect and retain funds received from interpreter training and certification tests applications; to use these funds to offset Court Interpreter Certification Program expenses; and to carry forward these funds. *Allows the department to receive the registration fees directly to cover the costs associated with the orientation and written exams.* Fiscal Impact: RFAO states this provision would have no impact on the General Fund. Agency other fund revenue would be increased approximately \$20,000. Requested by Judicial Department.

57.itc. (JUD: Interpreter Training and Certification) The Judicial Department shall collect and retain funds received from applicants for interpreter training and certification tests. These funds shall be used to offset expenses incurred for the SC Court Interpreter Certification Program. The department is authorized to receive, expend, retain, and carry forward these funds.

SECTION 59 - E200 - OFFICE OF THE ATTORNEY GENERAL

59.5 **AMEND** (Securities Fee Revenue) Directs that after \$20,500,000 of Securities Fee revenues have been deposited to the General Fund the Attorney General may retain \$400,000 to use for operations associated with the increase in licensed securities agents. Authorizes the Attorney General to carry forward the revenue to use for the same purpose. Requires any remaining Securities Fee revenues be remitted to the General Fund.
PROVISO SUBCOMMITTEE RECOMMENDATION: DELETE proviso. *See new proviso 59.sfr.*

~~59.5. (AG: Securities Fee Revenue) After the provisions of Section 35-1-702(b) of the 1976 Code have been satisfied, and upon notification to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee that such provisions have been satisfied, the next \$20,500,000 of Securities Fee revenues collected during the current fiscal year by the Office of the Attorney General shall be remitted to the General Fund of the State. The Office of the Attorney General may retain the next \$400,000 collected and may utilize these funds for operations to include expert witness expenses, investigative costs, trial preparation, and other related expenses associated with the increase in licensed securities agents. These funds may be carried forward from the prior fiscal year into the current fiscal year and utilized for the same purpose. Remaining Securities Fee revenues collected during the current fiscal year shall be remitted to the General Fund of the State.~~

59.sfr **ADD** (Securities Fee and Litigation Recovery Revenue) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize the Attorney General to retain the first \$12,000,000 in Securities Fee revenue for litigation and other operating expenses as determined by the Attorney General. Direct that the next \$200,000 be transferred to SLED for the State Grand Jury and for other purposes as determined by the director of SLED. Direct that all additional Securities Fee revenue be remitted to the General Fund. Require all monies received from litigation recovery be deposited into the Litigation Recovery Account at the Office of State

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Treasurer and prohibit the Attorney General’s Office from retaining any portion of these funds beyond reasonable costs incurred as defined in Section 1-7-85. Authorize these funds to be carried forward and used for the same purpose. Fiscal Impact: This provision would reduce general fund departmental securities fee revenue by approximately \$10,100,000 in FY 2016-17.

59.sfr. (AG: Securities Fee and Litigation Recovery Revenue) The Office of the Attorney General shall retain the first twelve million dollars in Securities Fee revenue generated by the Attorney General’s Office for litigation and other operating expenses as determined by the Attorney General. The next two hundred thousand in Securities Fee revenue shall be transferred to the State Law Enforcement Division for the purposes of the State Grand Jury and other purposes as determined by the director of the State Law Enforcement Division. All Securities Fee revenue collected in excess of twelve million two hundred thousand shall be remitted to the General Fund. In addition, all monies received from litigation recovery must be deposited into the Litigation Recovery Account at the Office of the State Treasurer and the Office of the Attorney General shall not retain any portion of these funds beyond reasonable costs incurred as defined in Section 1-7-85, of the 1976 Code. These funds may be carried forward from the prior fiscal year into the current fiscal year and be utilized for the same purpose.

SECTION 60 - E210 - PROSECUTION COORDINATION COMMISSION

60.cef CONFORM TO FUNDING / ADD (Caseload Equalization Funding) **PROVISO SUBCOMMITTEE RECOMMENDATION:** CONFORM TO FUNDING / ADD new proviso to direct that the first \$3,450,000 of caseload equalization funds be distributed \$75,000 per county and the remaining \$4,376,872 be distributed based on the average incoming caseload for each county as reported by the Judicial Department for the prior three fiscal years. Fiscal Impact: Agency requested an increase of \$7,826,872 for Caseload Equalization funding. Requested by Prosecution Coordination Commission.

60.cef. (PCC: Caseload Equalization Funding) The amount appropriated in this Act and authorized for Caseload Equalization will have the first \$3,450,000 distributed at an amount of \$75,000 per county. The remaining \$4,376,872 shall be distributed based upon the average incoming caseload for each county as reported by the Judicial Department for the prior three fiscal years.

SECTION 61 - E230-COMMISSION ON INDIGENT DEFENSE

61.1 AMEND (Defense of Indigents Formula) Provides for the distribution of “Defense of Indigents” funds.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to authorize the commission to also use the \$3,000,000 (Death Penalty Trial Fund) set aside “for juveniles facing the possibility of a sentence of life without parole.” *The commission anticipates expenditures for juvenile cases such as the Aiken v. Byars decision based on a recent South Carolina Supreme Court ruling.* Requested by Commission on Indigent Defense.

61.1. (INDEF: Defense of Indigents Formula) The amount appropriated in this act for “Defense of Indigents” shall be apportioned among counties in accord with Section 17-3-330 of the 1976 Code, but on a per capita basis and based upon the most current official decennial census of the United States; provided that no county shall receive funding in an amount less than the

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amount apportioned to it as of July 1, 2005. The level of contribution of each county as of July 1, 2001, must be maintained. No county shall be permitted to contribute less money than the amount the county contributed in the prior fiscal year. Within the amount of money established for indigent defense services, the State shall set aside \$3,000,000 (Death Penalty Trial Fund) annually ~~exclusively~~ for use of the defense in capital cases pursuant to Section 16-3-26 of the 1976 Code, *for juveniles facing the possibility of a sentence of life without parole*, and for the expenses of the operation of the Commission on Indigent Defense to include salaries and operations expenses of the Death Penalty Trial Division. The State also shall set aside \$2,500,000 annually to pay fees and expenses of private counsel appointed in noncapital cases pursuant to Section 17-3-50 (Conflict Fund). Of the funds generated from the fees imposed under Sections 14-1-206(C)(4), 14-1-207(C)(6) and 14-1-208(C)(6) and the application fee provided in Section 17-3-30(B), on a monthly basis, fifty percent must be deposited into the Death Penalty Trial Fund, fifteen percent must be deposited into the Conflict Fund, and the remaining funds each month must be apportioned among the counties' public defender offices pursuant to Section 17-3-330. At the end of each fiscal year any leftover funds shall carryover to the next fiscal year. All applications for the payment of fees and expenses in capital cases shall be applied for from the Death Penalty Trial Fund which shall be administered by the Commission on Indigent Defense. All applications for the payment of fees and expenses of private counsel or expenses of public defenders pursuant to Section 17-3-50 shall be applied for from the Conflict Fund administered by the Commission on Indigent Defense. Reimbursement in excess of the hourly rate and limit set forth in Section 17-3-50 is authorized only if the court certifies, in a written order with specific findings of fact, prior to the fees being incurred, that reimbursement in excess of the rates or limit is necessary to provide reimbursement adequate to ensure effective assistance of counsel and reimbursement in excess of the limit is appropriate because the services to be provided are reasonable and necessary. If prior approval by written order of the court is not obtained, no additional fees shall be paid under any circumstances.

Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonable and necessary for the representation of the defendant, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall authorize the payment, from funds available to the Commission on Indigent Defense, of fees and expenses not to exceed five hundred dollars as the court considers appropriate. Payment in excess of the five hundred dollar limit is authorized only if the court certifies, in a written order with specific findings of fact, prior to the expense being incurred, that payment in excess of the limit is appropriate because the services to be provided are reasonable and necessary to provide adequate defense. Payments shall be made from funds appropriated for this purpose from the Commission of Indigent Defense. If prior approval by written order of the court is not obtained, no additional expenses shall be paid under any circumstances.

Indigent defense vouchers authorized in this provision must be reviewed and paid pursuant to procedures and policies established by the Commission on Indigent Defense. The commission shall provide a copy of the established procedures and policies to the Senate Finance Committee and the House Ways and Means Committee.

SECTION 63 - K050 - DEPARTMENT OF PUBLIC SAFETY

63.bc **ADD** (Body Cameras Carry Forward) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize DPS to retain and carry forward unexpended funds associated with body cameras and to use those funds for the same purpose. *To*

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ensure that body camera funds are not swept under the generic 10% carry forward proviso, but remain dedicated to their original purpose. Requested by Department of Public Safety.

63.bc. (DPS: Body Cameras) The Department of Public Safety is authorized to retain and carry forward unexpended funds associated with body cameras from the prior fiscal year into the current fiscal year and expend those funds for the same purpose.

SECTION 65 - N040 - DEPARTMENT OF CORRECTIONS

65.18 AMEND (Special Assignment Pay Level 2 & 3 Facilities) Directs that funds appropriated for special assignment pay are to address turnover by providing pay differential for certain correctional officers, nursing staff, and food service staff at Level II and III facilities.
PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to specify that the special assignment pay is to be paid so as not to exceed the percentages specified in this provision and as determined the director.

65.18. (CORR: Special Assignment Pay Level 2 & 3 Facilities) Funds appropriated for special assignment pay at the Department of Corrections are for the purpose of addressing vacancies and turnover of staff by providing a pay differential for certain employees assigned to institutions with a Level II or Level III security designation. The funds are to be used for special assignment pay only and may not be transferred to any other program. If the employee leaves one of the qualifying job classes or leaves a Level II or Level III institution for a non-Level II or non-Level III facility, they shall no longer be eligible for this special assignment pay. Only employees in full-time equivalent positions are eligible for this special assignment pay.

The special assignment pay is not a part of the employee's base salary, but is a percentage thereof, and is to be paid as follows so as not to exceed the percentages specified below and as determined by the Director of the Department of Corrections:

(A) At Level II institutions:

- (1) four percent for Correctional Officers including Class Code JD-30 (cadets and Officer I and II positions) and Corporals I and II;
- (2) two percent for Sergeants and Lieutenants;
- (3) one percent for Captains and Majors;
- (4) two percent for Nursing staff; and
- (5) two percent for Food Service staff.

(B) At Level III institutions:

- (1) eight percent for Correctional Officers including Class Code JD-30 (cadets and Officer I and II positions) and Corporals I and II;
- (2) three percent for Sergeants and Lieutenants;
- (3) one percent for Captains and Majors;
- (4) three percent for Nursing staff; and
- (5) three percent for Food Service staff.

SECTION 117 - X900 - GENERAL PROVISIONS

117.iu ADD (Immigration Unit Transfer to SLED) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to transfer, for the current fiscal year, the duties, functions, responsibilities, personnel, funding, and physical assets of the Illegal Immigration Unit from DPS to SLED, effective July 1, 2016.

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117.iu. (GP: Immigration Unit Transfer to SLED) For the current fiscal year, effective July 1, 2016, the duties, functions, responsibilities, personnel, funding, and physical assets of the Illegal Immigration Unit are transferred from the Department of Public Safety to the State Law Enforcement Division.

117.ecb ADD (Excess Conservation Bank Funds) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct that funds collected by the S.C. Conservation Bank that are above the amount authorized in this act are to be transferred to DNR as follows: \$3,000,000 for the operation and management of Wildlife Management Areas; \$210,000 for heavy equipment for dike repair and road maintenance, and \$1,600,000 for Samworth, Santee Coastal, and Santee Delta Wildlife Management Areas dike repair and replacement. Authorize DNR to carry forward these funds for the same purpose.

117.ecb. (GP: Excess Conservation Bank Funds) Of the funds collected by the South Carolina Conservation Bank that are in excess of the amount authorized in this act, \$3,000,000 shall be transferred by the Conservation Bank to the Department of Natural Resources for operation and management of the Wildlife Management Areas; \$210,000 shall be transferred to the Department of Natural Resources for heavy equipment for dike repair and road maintenance; and \$1,600,000 shall be transferred to the Department of Natural Resources for Samworth, Santee Coastal and Santee Delta Wildlife Management Areas dike repair and replacement. The Department of Natural Resources shall carry forward these funds to be used for the same purpose.

SECTION 118 - X910-STATEWIDE REVENUE

118.fds ADD (Criminal Justice Academy \$5 Surcharge) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct that an additional \$5 surcharge is levied on all fines, forfeitures, escheatments or other monetary penalties imposed in general sessions, magistrates', or municipal court for misdemeanor traffic offenses or for non-traffic violations and directs that the surcharge be used to fund training at the Criminal Justice Academy. Prohibits the surcharge from being waived, reduced or suspended. Directs that the additional surcharge does not apply to parking citations. Provides for the manner in which the funds are to be remitted to the State Treasurer and transferred to the Criminal Justice Academy. Provides for the examination of a jurisdiction's financial records by the State Auditor. Fiscal Impact: Section 14-1-240 which provides for this additional surcharge to be transferred to the Criminal Justice Academy for training sunsets June 30, 2016. RFAO estimates this provision would increase general fund revenue by \$3,455,000 in FY 2016-17. It is the intent that an equivalent amount of general funds will be appropriated to the Criminal Justice Academy.

118.fds.(SR: Criminal Justice Academy \$5 Surcharge) (A) In addition to all other assessments and surcharges, during the current fiscal year, a five dollar surcharge to fund training at the South Carolina Criminal Justice Academy is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates' or municipal court for misdemeanor traffic offenses or for non-traffic violations. No portion of the surcharge may be waived, reduced, or suspended. The additional surcharge imposed by this section does not apply to parking citations.

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(B) The revenue collected pursuant to subsection (A) must be retained by the jurisdiction, which heard or processed the case and paid to the State Treasurer within thirty days after receipt. The State Treasurer shall transfer the revenue quarterly to the General Fund.

(C) The State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to subsection (B). The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

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