

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2015-16
TO THE HOUSE WAYS AND MEANS COMMITTEE**

SECTION 47 - P24-DEPARTMENT OF NATURAL RESOURCES

47.3 **AMEND** (Proportionate Funding) Allocates a proportionate share of funds to each of the 46 Soil and Water Conservation Districts.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to change “\$13,674” to “\$15,000.” *Technical to conform to the amount of funds on the line since the General Assembly increased the line item funding in FY 2014-15 to \$690,000.* Requested by Department of Natural Resources.

47.3. (DNR: Proportionate Funding) Each of South Carolina’s forty-six soil and water conservation districts shall receive a proportionate share of funding set aside for Aid to Conservation Districts at ~~\$13,674~~ \$15,000 per district for general assistance to the district’s program. Available funding above ~~\$13,674~~ \$15,000 for each district will be apportioned by the Department of Natural Resources based upon local needs and priorities as determined by the board. During the fiscal year, the districts’ funding may only be reduced in an amount not to exceed the percentage of each agency budget reduction. No district shall receive any funds under this provision unless the county or counties wherein the district is located shall have appropriated no less than three hundred dollars to the district from county funds for the same purposes.

47.ws **ADD** (Web Services and Technology Development) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize the department to carry forward unexpended general funds from their Web Services and Technology Development program other operating expenses budget line. Direct that the funds carried forward may only be used to support technology operating expenses within the department. Fiscal Impact: RFAO indicates this proviso would have no expenditure impact on the General Fund, or on federal or other funds. Requested by Department of Natural Resources.

47.ws. (DNR: Web Services and Technology Development) The department may carry forward any unexpended general fund balance remaining on the Other Operating Expenses line, identified in the “Web Services and Technology Development” program of the department appropriations from Part 1A in this Act. Balances carried forward from the prior fiscal year are only authorized to be expended to support technology operating expenses within the department.

SECTION 57 - B04-JUDICIAL DEPARTMENT

57.cc **ADD** (Court Costs Carry Forward) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct the Judicial Department to retain funds collected from costs related to court proceedings under SC Appellate Court Rules 413 or 502 or from the appointment of a receiver or attorney to assist the receiver under Rule 413, that are assessed against a party. Authorize the department to receive, expend, retain, and carry forward the funds and to use the funds for the same purpose. Fiscal Impact: RFAO indicates this proviso is not expected to impact the General Fund or federal funds. It does impact other funds collected by the Commission on Conduct and the Office of Receiver. The Judicial Department projects an estimated increase of \$50,000 in other funds. Requested by Judicial Department.

57.cc. (JUD: Court Costs Carry Forward) The Judicial Department shall retain the funds collected from costs related to court proceedings (including the cost of hearings, investigations, prosecution, service of process and court reporter services) under Rules 413 or 502 of the SC

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Appellate Court Rules, or from costs related to the appointment of a receiver or an attorney to assist the receiver under Rule 413, that are assessed against a party. The department is authorized to receive, expend, retain, and carry forward these funds which shall be used for the same purpose.

SECTION 59 - E20-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 \$300,000 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: AMEND proviso to change “\$300,000” to “\$400,000.” Requested by Office of the Attorney General.

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 ~~\$300,000~~ \$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.po **ADD** (Public Official Attorney Fees) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to require the General Assembly to pay court ordered attorney’s fees and costs when the Attorney General defends one or more public officers in their official capacity in the litigation. Fiscal Impact: RFAO indicates this proviso will increase General Fund expenditures by \$98,000 for FY 2015-16. There will be no impact on federal or other funds. The Attorney General’s Office states the fiscal impact would vary and likely be zero in most years. The expenditure impact of \$98,000 is based on a current judgment awarding fees and costs against the state, but there is no appropriation for payment. Requested by Office of the Attorney General.

59.po. (AG: Public Official Attorney Fees) The General Assembly shall pay the attorney’s fees and costs ordered by the court in those cases in which the Attorney General defends one or more public officers in their official capacities in the litigation.

SECTION 60 - E21-PROSECUTION COORDINATION COMMISSION

60.ccf **CONFORM TO FUNDING** (Caseload Equalization Fund Distribution) **PROVISO SUBCOMMITTEE RECOMMENDATION:** CONFORM TO FUNDING RECOMMENDATION...ADD new proviso to direct that the first \$3,450,000 of caseload equalization funds be distributed \$75,000 per county and the remaining \$4,314,929 be distributed based on the average incoming caseload for each county as reported by the Judicial Department

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for the prior two fiscal years. Fiscal Impact: Agency has requested \$7,764,929 for this purpose. Requested by Commission on Prosecution Coordination.

60.ccf. (PCC: Caseload Equalization Fund Distribution) The first \$3,450,000 of caseload equalization funds shall be distributed at \$75,000 per county. The remaining \$4,314,929 shall be distributed based upon the average incoming caseload for each county as reported by the Judicial Department for the prior two fiscal years.

SECTION 61 - E23-COMMISSION ON INDIGENT DEFENSE

61.cc **ADD** (Capital Case Contract Attorneys) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize the Death Penalty Trial Fund to be used to retain attorneys, on a contractual basis, to provide representation in capital proceedings. Direct the commission to establish policies, procedures, and contract provisions for system implementation, including but not limited to, selection and compensation of contract awardees. Fiscal Impact: RFAO indicates there is no fiscal impact on the General Fund or federal or other funds. Requested by Commission on Indigent Defense.

61.cc. (INDEF: Capital Case Contract Attorneys) Funds appropriated from the Death Penalty Trial Fund may be used by the commission to retain, on a contractual basis, the service of attorneys qualified to provide representation in capital proceedings to include: capital trials, post-conviction relief actions, re-sentencing, appeals or any other capital litigation proceeding.

The commission shall establish all policies, procedures and contract provisions as it deems appropriate for the implementation of the system, including but not limited to the selection and compensation of contract awardees.

61.oc **ADD** (Optional Courts and Indigent Representation) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to require a municipality who has or elects to have an optional municipal court system to provide adequate funds for representation of indigents. Prohibit a public defender from being appointed in such court unless the municipality and the office of the circuit public defender have reached an agreement for indigent representation and prohibit the commission from using their funds to provide compensation for appointed counsel in municipal courts.

61.oc. (INDEF: Optional Courts and Indigent Representation) If a municipality has or elects to have an optional municipal court system, it must provide adequate funds for representation of indigents. No public defender shall be appointed in any such court unless the municipality and the office of the circuit public defender have reached an agreement for indigent representation and no funds allocated to the commission shall be used to provide compensation for appointed counsel in municipal courts.

61.iv **ADD** (Indigent Verification) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct the Commission on Indigent Defense to review all Affidavits for Indigency and Application for Council and make recommendations to the General Assembly by January 5, 2016 on whether additional requirements and supporting documentation should be required of all applicants in order to verify their financial status and to determine whether their application should be approved and counsel appointed. Require the commission report to the General

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Assembly by August 1, 2015, on the number of applications accepted and rejected during Fiscal Year 2014-15, and to supply the reasons for the rejections.

61.iv. (INDEF: Indigent Verification) The Commission on Indigent Defense is directed to review all Affidavits for Indigency and Application for Counsel and make recommendations to the General Assembly by January 5, 2016, on additional requirements for applicants and supporting documentation that should be required of all applicants in order to verify their financial status and whether their application should be approved and counsel appointed accordingly. Additionally, the commission shall report to the General Assembly by August 1, 2015, on the number of applications accepted and rejected during Fiscal Year 2014-15, and if rejected the reasons for the rejection.

SECTION 65 - N04-DEPARTMENT OF CORRECTIONS

65.9 **AMEND** (Prison Industry Funds) Authorizes the department to use Prison Industry funds for projects or services that benefit the general welfare of the inmate population or to supplement operational costs, at the director's discretion.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to authorize the funds to be carried forward and used for the same purpose. Requested by Department of Corrections.

65.9. (CORR: Prison Industry Funds) The Director of the Department of Corrections, at his discretion, is hereby authorized to utilize prison industry funds for projects or services benefiting the general welfare of the inmate population or to supplement costs of operations. These funds may be carried forward from the prior fiscal year into the current fiscal year to be used for the same purpose.

SECTION 118 - X91-STATEWIDE REVENUE

118.4 **DELETE** (Criminal Justice Academy Funding) Directs 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. 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 State Auditor to examine jurisdictions financial records. Directs that if S.894 is enacted into law, and if Section 14-1-240 as contained in that enactment is in effect, the requirements of this provision are suspended for as long as Section 14-1-240 is in effect.

PROVISO SUBCOMMITTEE RECOMMENDATION: DELETE proviso. *Codified by Act 247 of 2014.*

118.4. (SR: Criminal Justice Academy Funding) ~~(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 South Carolina Criminal Justice Academy.~~

~~(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.~~

~~(D) In the event S. 894, which was introduced on December 17, 2013, is enacted into law, and if Section 14-1-240 as contained in that enactment is in effect, the requirements of this provision shall be suspended for as long as Section 14-1-240 is in effect.~~

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