

SENATE BILL No. 442

April 21, 2009, Introduced by Senators PRUSI, THOMAS, ANDERSON, BRATER, SCOTT, OLSHOVE, CHERRY, HUNTER, BASHAM, JACOBS, GLEASON, CLARKE, CLARK-COLEMAN and SWITALSKI and referred to the Committee on Judiciary.

A bill to amend 1846 RS 12, entitled
"Of certain state officers,"
by amending section 33 (MCL 14.33), as amended by 1996 PA 563.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 33. (1) All moneys received by the attorney general, for
2 debts due, or penalties forfeited to the people of this state,
3 shall be paid by him or her, immediately after receipt, into the
4 state treasury.

5 (2) Except as otherwise provided in this section, any proceeds
6 from a lawsuit settlement entered into by a state agency,
7 department, division, bureau, board, commission, council,
8 authority, or other body in the executive branch of state
9 government or an individual acting on behalf of the executive

1 branch of state government as the result of an action instituted on
2 behalf of the state against a private individual or business or any
3 other private organization shall be deposited into a restricted
4 fund to be used as provided by law **AFTER APPROPRIATION**. ~~In case of~~
5 ~~a conflict between this section and~~ **IF THIS SECTION CONFLICTS WITH**
6 ~~another state or federal law that requires~~ **OF THIS STATE OR OF THE**
7 **UNITED STATES REQUIRING** allocation to a specific fund or account or
8 for a specific purpose or purposes, that other state statute or
9 federal law shall prevail **PREVAILS**.

10 (3) **EXCEPT AS OTHERWISE PROVIDED BY A LAW OF THIS STATE OR OF**
11 **THE UNITED STATES, THE DEPARTMENT OF ATTORNEY GENERAL SHALL NOT**
12 **AGREE AS PART OF THE SETTLEMENT OF A LAWSUIT OR ADMINISTRATIVE**
13 **ENFORCEMENT ACTION ON BEHALF OF THIS STATE, THE PEOPLE OF THIS**
14 **STATE, A STATE ENTITY, OR AN INDIVIDUAL OR OFFICER ACTING ON BEHALF**
15 **OF THIS STATE AGAINST A PRIVATE INDIVIDUAL, BUSINESS, OR OTHER**
16 **ENTITY, TO ACCEPT THE PAYMENT OF MONEY, GOODS, SERVICES, OR OTHER**
17 **BENEFITS TO A THIRD PARTY OR PARTIES IN LIEU OF A DEBT OR**
18 **OBLIGATION OTHERWISE DUE TO THIS STATE OR THE PEOPLE OF THIS STATE.**
19 **ANY MONEY PAID TO SETTLE A DEBT OR OBLIGATION OWED TO THIS STATE OR**
20 **THE PEOPLE OF THIS STATE, OR PAID IN LIEU OF A DEBT OR OBLIGATION**
21 **OTHERWISE DUE TO THIS STATE OR THE PEOPLE OF THIS STATE, OR GOODS**
22 **OR SERVICES OFFERED TO SETTLE CLAIMS ON BEHALF OF THIS STATE OR THE**
23 **PEOPLE OF THIS STATE SHALL BE DEPOSITED IN THE STATE TREASURY**
24 **IMMEDIATELY AFTER RECEIPT AND SHALL NOT BE AVAILABLE FOR**
25 **EXPENDITURE OR DISBURSEMENT UNTIL APPROPRIATED. THIS SUBSECTION**
26 **DOES NOT APPLY TO SETTLEMENT MONEY OR GOODS DISBURSED BY A COURT-**
27 **APPROVED CLAIMS ADMINISTRATOR DIRECTLY TO CONSUMER MEMBERS OF A**

1 CLASS ACTION LAWSUIT BROUGHT BY THE ATTORNEY GENERAL IN HIS OR HER
2 PARENS PATRIAE CAPACITY, IF THE DISBURSEMENT IS JUDICIALLY
3 AUTHORIZED AND IS MADE FOLLOWING A NOTICE PERIOD AND FAIRNESS
4 HEARING OR TO SUPPLEMENTAL ENVIRONMENTAL PROJECTS SECURED ON BEHALF
5 OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

6 (4) ON A QUARTERLY BASIS, THE ATTORNEY GENERAL SHALL REPORT TO
7 THE STATE BUDGET OFFICE AND THE APPROPRIATIONS COMMITTEES FOR BOTH
8 THE HOUSE AND SENATE THE CASE NAMES AND CORRESPONDING ATTORNEY
9 GENERAL CASE FILE NUMBERS, COURT DOCKET NUMBERS, AND PRESIDING
10 COURTS FOR EVERY MATTER THAT THE ATTORNEY GENERAL SETTLED DURING
11 THE PRECEDING QUARTER. THE ATTORNEY GENERAL SHALL REPORT THE TOTAL
12 SETTLEMENT VALUE FOR EACH CASE REPORTED. THE ATTORNEY GENERAL SHALL
13 ITEMIZE EACH SETTLEMENT TO ADDITIONALLY REFLECT ALL OF THE
14 FOLLOWING:

15 (A) THE AGGREGATE MICHIGAN CONSUMER RECOVERY.

16 (B) THE VALUE OF RESTITUTION PAID ON BEHALF OF THE STATE OR
17 ANY STATE OR FEDERAL DEPARTMENT OR AGENCY WHOSE INTEREST WAS
18 RESOLVED IN THE CASE.

19 (C) AMOUNTS RECOVERED FOR CIVIL PENALTIES.

20 (D) AMOUNTS RECOVERED FOR ATTORNEY FEES.

21 (E) AMOUNTS RECOVERED AS REIMBURSEMENT FOR THE COSTS OF
22 INVESTIGATION. IF THE ATTORNEY GENERAL SETTLED A CASE IN THE PRIOR
23 QUARTER FOR NONMONETARY PROCEEDS, HE OR SHE SHALL INDICATE THE
24 IDENTITY AND VALUE OF PROCEEDS SO RECEIVED FOR EACH CASE AS
25 PROVIDED IN THIS SECTION.

26 (5) THE PROCEEDS OF ANY SETTLEMENT ENTERED INTO ON BEHALF OF
27 THIS STATE SHALL NOT BE USED FOR ADVERTISING OR A PUBLIC SERVICE

1 MESSAGE THAT INCLUDES A REFERENCE TO, OR THE IMAGE OR VOICE OF, AN
2 INDIVIDUAL HOLDING OR A CANDIDATE FOR A STATE ELECTIVE OFFICE.

3 (6) ~~(3)~~—As used in this section, "proceeds" means a cash
4 settlement. Proceeds does not include real property or stocks,
5 bonds, or other evidences of indebtedness unless these items are to
6 be converted into cash as part of the settlement or payments to be
7 made to a specifically designated party as a result of the
8 settlement of a contractual dispute between the state and a party
9 or parties to a contract with the state.