

State Finance Law

§ 98-b. Indigent legal services fund.

1. There is hereby established in the joint custody of the comptroller and the commissioner of taxation and finance a special fund to be known as the indigent legal services fund.

2. Such fund shall consist of all moneys appropriated for the purpose of such fund, all other moneys required to be paid into or credited to such fund, and all moneys received by the fund or donated to it.

(a) The purpose of such fund shall be to

(i) assist counties and, in the case of a county wholly contained within a city, such city, in providing legal representation for persons who are financially unable to afford counsel pursuant to article eighteen-B of the county law;

(ii) assist the state, in improving the quality of public defense services and funding representation provided by assigned counsel paid in accordance with section thirty-five of the judiciary law; and

(iii) provide support for the operations, duties, responsibilities and expenses of the office of indigent legal services and the indigent legal services board established, respectively, pursuant to sections eight hundred thirty-two and eight hundred thirty-three of the executive law.

(b) State funds received by a county or city from such fund shall be used to supplement and not supplant any local funds which such county or city would otherwise have had to expend for the provision of counsel and expert, investigative and other services pursuant to article eighteen-B of the county law. All such state funds received by a county or city shall be used to improve the quality of services provided pursuant to article eighteen-B of the county law. Nothing in this paragraph shall preclude a county from decreasing local funds as long as the county demonstrates to the office of indigent legal services established by section eight hundred thirty-two of the executive law that the quality of services has been maintained or enhanced notwithstanding the use of state funds.

(c) As used in this section, "local funds" shall mean all funds appropriated or allocated by a county or, in the case of a county wholly contained within a city, such city, for services and expenses in accordance with article eighteen-B of the county law, other than funds received from:

(i) the federal government or the state; or

(ii) a private source, where such city or county does not have authority or control over the payment of such funds by such private source.

3. Amounts distributed from such fund shall be limited to amounts appropriated therefor and shall be distributed as follows:

(a) The office of court administration may expend a portion of the funds available in such fund to provide assigned counsel paid in accordance with section thirty-five of the judiciary law, up to an annual sum of twenty-five million dollars.

(b) An annual amount of forty million dollars shall be made available to the city of New York from such fund for the provision of services pursuant to article eighteen-B of the county law; provided that the city of New York shall continue to provide at minimum the aggregate amount of funding for public defense services including, but not limited to, the amount of funding for contractors of public defense services and individual defense attorneys, that it provided, pursuant to article eighteen-B of the county law during its two thousand nine--two thousand ten fiscal year.

(c) Within the first fifteen days of March two thousand eleven, each county other than a county wholly contained within the city of New York, shall receive ninety percent of the amount paid to such county in March two thousand ten. Within the first fifteen days of March two thousand twelve, each county other than a county wholly contained within the city of New York shall receive seventy-five percent of the amount paid to such county in March two thousand ten. Within the first fifteen days of March two thousand thirteen, each county other than a county wholly contained within the city of New York shall receive fifty percent of the amount paid to such county in March two thousand ten. Within the first fifteen days of March two thousand fourteen, each county other than a county wholly contained within the city of New York shall receive twenty-five percent of the amount paid to such county in March two thousand ten. For all state fiscal years following the two thousand thirteen--two thousand fourteen fiscal year, there shall be no required annual payments pursuant to this paragraph. Notwithstanding the provisions of this paragraph, for each of the four required payments made to counties within the first fifteen days of March two thousand eleven, two thousand twelve, two thousand thirteen and two thousand fourteen, Hamilton and Orleans counties shall receive such percentage payments based on the amounts that each county would have received in March two thousand ten had it satisfied the maintenance of effort requirement set forth in paragraph (c) of subdivision four of this section in effect on such date.

(d) Remaining amounts within such fund, after accounting for annual payments required in paragraphs (a), (b) and (c) of this subdivision and subparagraph (iii) of paragraph (a) of subdivision two of this section shall be distributed in accordance with sections eight hundred thirty-two and eight hundred thirty-three of the executive law.