

2009 Legislative Restriction on Payment of Late Bills

Section 88 of the FY2010 state budget **prohibits CPCS from paying** private counsel bills received more than 90 days after either the conclusion of a case or the end of a fiscal year, absent a finding by the Chief Counsel "that the delay was due to extraordinary circumstances beyond the control of the attorney."*

This new provision of law did not change rules for timely end of fiscal year billing during the period 7/1/09 through 9/30/09. All bills for FY09 legal representation received by CPCS in good order on or before August 1, 2009, have been processed or are being processed in the normal manner. Bills received after August 1 but on or before September 30 are subject to the same 10% reduction that the Legislature has long required that we impose on late submissions. **Only late bills received on or after October 1 will be subject to presumptive non-payment under section 88.** In keeping with established policy, old bills are subject to pre-payment review by CPCS's Audit and Oversight Department.

* The full text of section 88 follows:

SECTION 88. Chapter 211D of the General Laws is hereby amended by striking out section 12, as so appearing, and inserting in place thereof the following section:

Section 12. The committee shall establish policies and procedures to provide fair compensation to private counsel, which shall include a remedy for an attorney aggrieved by the amount of payment. The committee shall also establish an audit and oversight department to monitor billing and private attorney compensation. All invoices shall be processed for payment within 30 days of receipt by the chief counsel. Bills shall be submitted to the committee within 60 days of the conclusion of a case or, if the case is pending at the end of the fiscal year, within 30 days after the end of such fiscal year. The amount of payment for invoices received by the chief counsel more than 60 days but less than 90 days after the final disposition of the case or more than 30 days but less than 90 days after the end of the fiscal year shall be reduced by 10 per cent. Bills submitted after such date need not be processed for payment within 30 days. For all bills not submitted to the committee within 90 days after the conclusion of a case or, if the case is pending at the end of the fiscal year, within 90 days after the end of the fiscal year, those bills so submitted after such date shall not be processed for payment; provided, however, that the chief counsel may authorize the payment of such bills either in whole or in part upon a determination that the delay was due to extraordinary circumstances beyond the control of the attorney. The committee may further prescribe such policies and procedures for payment as it deems appropriate; provided, however, that the committee may impose interest and penalties, where appropriate, upon overpayment of the private attorney bills recovered from private attorneys.