

Meeting Date
April 19, 2016



AGENDA	
Section	New Business
Item No.	VI D 4

AGENDA REPORT

BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Department of Juvenile Justice (DJJ) – Laws of Florida 2016-152 providing changes to cost share of juvenile detention; dismissal of pending litigation
DEPT/OFFICE:	County Attorney’s Office/Housing and Human Services Contact: Shannon L. Wilson, Deputy County Attorney – shannon.wilson@brevardcounty.us; ext. 52090 Ian Golden, Director, Housing and Human Services t. – ian.golden@brevardcounty.us; ext. 52007

Requested Action:

It is requested that the Board of County Commissioners authorize the County Attorney’s Office to dismiss pending litigation in which Brevard County is participating against DJJ and authorize the Chair to sign the attached Release.

Summary Explanation & Background:

The legislature passed, and the governor has now signed, Laws of Florida 2016-152. This legislation amends Florida Statute 985.6865 changing the formula of the shared cost of secure juvenile detention for nonfiscally constrained counties (the State pays for fiscally constrained counties) to a ‘formula’ of “50%-50%” (County/State) - compared to the previous “57%- 43%” (County/State) split. There will be no reconciliation at the end of each fiscal year (State fiscal year) going forward.

The “50%-50%” is determined by each nonfiscally constrained county’s actual days of use for the prior year. Based on the calculation for FY 2015 -2016, Brevard will pay approximately \$481,033.18 less next State fiscal year (Brevard paid \$1,742,072.28 for State FY 2015-2016 and new estimated payment is \$1,261,039.10).

The Legislature – while still in session - asked the counties to dismiss all pending litigation and claims for credits as determined owed in past litigation in return for passage of the bill. They also asked counties to pay any sum previously withheld (called a “debit”) by the counties. For FY 2014 -2015, based on the Board’s decision on July 10, 2014, paid \$1,033,661.04 (86,138.42 monthly) vs the DJJ invoiced amount of \$1,753,257.06 (\$122,740.97 monthly) leaving an “outstanding” debit/assessment of \$719,596.02 owed by Brevard. Direction was sought from the Board on the Legislature’s request on February 4, 2016 and on February 16, 2016. At the February 16, 2016 meeting, the Board indicated its willingness to dismiss litigation and waive claims for cost share prior to FY 2016-2017 if the County had 3 years within which to pay the \$719K figure.

The final legislation passed provides that the County waives its right to the credit it is owed by the State; however, the State has also waived its claim to the \$719,596.02 which Brevard held back in FY 2014-2015.

The County Attorney’s Office requests final authority to dismiss the pending litigation in which the County participated challenging the way in which DJJ previously calculated the cost share.

Out of an abundance of caution, it is also recommended that Board authorize the Chairman to sign a Release clarifying that the County’s waiver of rights to future claims and actions based on the detention cost share prior to State FY 2016 -2017, is conditioned on DJJ’s compliance with Florida Statute 985.6865(2) as amended.

Clerk to the Board instruction: Should the Board execute the Release, return 2 executed originals to County Attorney’s Office (attention Shannon Wilson); and copies to the County Manager’s Office (attention Stockton Whitten), and Housing and Human Services Dept (attention Ian Golden)

Exhibits Attached: Release

Contract /Agreement (If attached):		Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
		N/A						
County Manager		Assistant County Manager	Department Director / Extension Scott Knox, County Attorney’s Office/ ext. 52090					
Stockton Whitten		Venetta Valdengo						
		Assistant County Manager						
		Frank Abbate						



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April 20, 2016

M E M O R A N D U M

TO: Scott Knox, County Attorney Attn: Shannon Wilson

RE: Item VI.D.4., Dismissal of Pending Litigation for Department of Juvenile Justice (DJJ) – Laws of Florida 2016-152, Providing Changes to Cost Share of Juvenile Detention

The Board of County Commissioners, in regular session on April 19, 2016, authorized dismissal of pending litigation against DJJ; and authorized Chairman to execute the Release and Waiver. Enclosed are two fully-executed Release and Waivers for your action.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

Encls. (2)

cc: County Manager
Housing and Human Services Director
Finance
Budget

**RELEASE AND WAIVER IN COMPLIANCE
WITH CHAPTER 2016-152, LAWS OF FLORIDA (2016)**

Pursuant to the provisions of Chapter 2016-152, Laws of Florida (2016), signed into law on March 29, 2016, and creating section 985.6865, Florida Statutes, BREVARD COUNTY ("the County") hereby releases and waives any existing or future claims and actions against the state or any state agency arising from detention cost share prior to the 2016-2017 state fiscal year. Such release and waiver is specifically conditioned upon the Department of Juvenile Justice's ("the Department") compliance with the provisions of section 985.6865(2), Florida Statutes, which mandates that the Department may not seek reimbursement from counties complying with this subsection for any underpayment for any cost-sharing requirements occurring before the 2016-2017 state fiscal year; the County does not release or waive any existing or future claim or action regarding any failure of the Department to comply with the same.

BREVARD COUNTY BOARD OF
COUNTY COMMISSIONERS

By: _____



Printed Name: Jim Barfield

Position/Title: Chairman

Dated: April 19, 2016

ATTESTS: _____



SCOTT ELLIS, CLERK