



House Republican Staff Analysis

Bill: HF 563
Committee: Judiciary
Date: 3/15/2011
Member: Rep. Garrett
Staff: Amanda Freel (1-5230)

Summary

This bill creates transparency in contracts between private attorneys and the state.

Summary of Action

- Subcommittee 2/7/2011
 - Committee 3/3/2011 (11-10)
 - Passed House 3/15/11 (94-0)
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Section-by-Section Analysis

Section I- Special Counsel

A subsection is added to require the executive branch and AG to comply with chapter 23B when retaining legal counsel.

Section II-23B.1 Citation-Transparency in Private Attorney Contracts Act- (New Section)

Section III- Definitions

Government attorney
Private attorney
State

Section IV 23B.3 Contracts for Legal Services

1. Before entering into a contingency fee contract with a private attorney, the Attorney General must make a written determination that the contract is cost effective and in the public interest.

The writing must include:

- a- Whether sufficient and appropriate legal and financial resources exist
- b- Time and labor required. Complexity of case.
- c- Geographic area where attorney services are to be provided
- d- The amount of experience desired for the attorney services.

2. AG must follow procurement process used by the department of administrative services in seeking private attorneys to represent on a contingency fee basis. If this is not feasible, the AG must state the reason in writing.

3a- State shall not enter into a contingency fee if the sum is higher than:

1.25% of any recovery up to \$10 million

2. 20% of any recovery between \$10-15 million
 - 3-15% of any recovery between \$15-20 million
 - 4-10% of any recovery between \$20-25 million
 - 5- 5% of any recovery above \$25 million
- b. Contingency fee shall not exceed fifty million
 - c. AG can request a waiver from the executive council if the fee will exceed fifty million. 30 day notice is required and unanimous consent is needed from the council.
4. AG shall develop a standard form to be used in every contract for a contingent fee that describes in detail what is expected of both parties including:
 - a- a government attorney retains complete control over the course and conduct of the case
 - b- Government attorney with supervisory authority shall be personally involved
 - c- Government attorney retains veto power over any decisions of private attorney
 - d- Defendant may contact government attorney directly
 - e- Settlement decisions reserved to the discretion of the government attorney and the state
 - f- government attorney with supervisory authority shall attend all settlement conferences
 5. Contracts between the AG and private attorney shall be posted online. Payments to the private attorney shall be posted online.
 6. Requires private attorney to keep records of all charges and expenses and make them available for inspection for at least four years after the contract ends.
 7. The AG shall submit to the house and senate a report by February 1st that describes the use of contingency fee contracts for the previous year.

23B.4 No Expansion of Authority to Contract (New Section)

23B.5 Chapter Inapplicable

This does not apply to legal services contracts under chapter 13B