

By Senator Polsky

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1 A bill to be entitled
2 An act relating to legal representation contracts;
3 amending s. 16.0155, F.S.; defining the term
4 "contingency fee"; creating s. 16.0156, F.S.; defining
5 terms; prohibiting the Department of Legal Affairs
6 from entering into certain contracts until the
7 Attorney General makes a specified written
8 determination; requiring that the determination
9 include certain findings; requiring the Attorney
10 General to request proposals from private attorneys
11 after making such determination; providing that the
12 written determination does not constitute a final
13 agency action that is subject to review; providing
14 that the request for proposals and the contract award
15 are not subject to challenge under the Administrative
16 Procedure Act; requiring contracted private attorneys
17 to maintain certain records and to provide records to
18 the department at specified intervals; requiring the
19 department to post and maintain specified information
20 on its website; requiring the Attorney General to
21 submit an annual report to the Legislature by a
22 specified date; providing requirements for the report;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Present paragraphs (a) and (b) of subsection (1)
28 of section 16.0155, Florida Statutes, are redesignated as
29 paragraphs (b) and (c), respectively, and a new paragraph (a) is

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30 added to that subsection, to read:

31 16.0155 Contingency fee agreements.—

32 (1) As used in this section, the term:

33 (a) "Contingency fee" means compensation that is dependent
34 or contingent in whole or in part on the successful prosecution
35 or settlement of an action or claim, and such compensation
36 includes an attorney fee that is authorized by statute.

37 Section 2. Section 16.0156, Florida Statutes, is created to
38 read:

39 16.0156 Legal representation contracts.—

40 (1) As used in this section, the term:

41 (a) "Department" means the Department of Legal Affairs.

42 (b) "Legal representation contract" means any contract for
43 legal services, other than a contingency fee agreement, entered
44 into by the department with a private attorney.

45 (c) "Private attorney" includes a law firm.

46 (2) The department may not enter into a legal
47 representation contract until the Attorney General makes a
48 written determination that such representation is both cost-
49 effective and in the public interest. The determination must
50 include specific findings regarding each of the following
51 factors:

52 (a) Whether sufficient and appropriate legal and financial
53 resources are available within the department to support the
54 contract and whether requests for proposals for legal
55 representation are feasible given the specific circumstances of
56 the case.

57 (b) The time, labor, and legal skill level required of the
58 contracted attorney and the novelty, complexity, and difficulty

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59 of the questions involved in the case.

60 (c) The geographic area where the attorney services are to
61 be provided.

62 (d) The amount of experience required for the particular
63 legal services to be provided and the nature of the contracted
64 attorney's experience with similar issues or cases.

65 (3) Notwithstanding the exemption provided in s.
66 287.057(3)(e)4., after the Attorney General makes a
67 determination under subsection (2), he or she shall request
68 proposals from private attorneys to represent the department.
69 The written determination does not constitute a final agency
70 action subject to review pursuant to s. 120.569 or s. 120.57.
71 For purposes of this subsection only, the department is exempt
72 from the requirements imposed by s. 120.57(3), and neither the
73 request for proposals nor the contract award is subject to
74 challenge pursuant to s. 120.569 or s. 120.57.

75 (4) In addition to the requirements set forth in s.
76 287.059(16), any contracted attorney shall maintain detailed
77 contemporaneous time records for the attorneys and paralegals
78 working on the matter in increments not exceeding 1/10 of an
79 hour and shall provide such records to the department biweekly.

80 (5) The department shall post and maintain the records on
81 the department's website for public inspection for the duration
82 of the representation. The department shall update the expenses
83 posted on the website monthly.

84 (6) Copies of any executed legal representation contract
85 and the written determination made under subsection (2) must be
86 posted on the department's website for public inspection within
87 5 business days after the date the contract is executed and must

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88 remain posted on the website for the duration of the
89 representation contract, including any extensions or amendments
90 thereto. Any payment of fees to the contracted attorney made
91 pursuant to the contract must be posted on the department's
92 website within 15 days after such payment and must remain posted
93 on the website for at least 365 days thereafter.

94 (7) By February 1 of each year, the Attorney General shall
95 submit a report to the President of the Senate and the Speaker
96 of the House of Representatives describing the use of legal
97 representation contracts under this section in the preceding
98 calendar year. At a minimum, the report must:

99 (a) Identify all legal representation contracts entered
100 into under this section during that year and all such contracts
101 previously executed which remain current during any part of that
102 year. The report must identify all of the following for each
103 such contract:

104 1. The name of the private attorney with whom the
105 department has contracted, including the name of the attorney's
106 law firm.

107 2. The nature and status of the legal matter.

108 3. The name of the parties to the legal matter.

109 4. The amount of any recovery.

110 5. The amount of any fee paid.

111 (b) Include copies of any written determinations made under
112 subsection (2) during that year.

113 Section 3. This act shall take effect July 1, 2024.