

By the Committee on Judiciary; and Senator Sanderson

308-2331-02

1                                   A bill to be entitled  
2           An act relating to attorney's fees; amending s.  
3           287.059, F.S.; providing specific limitations  
4           on the payment, negotiation, or collection of  
5           attorney's fees by private counsel for work  
6           performed on behalf of the state or any agency  
7           thereof; prohibiting a contract or settlement  
8           agreement that authorizes or permits payment,  
9           negotiation, or collection by private counsel  
10          in excess of a specified amount for work  
11          performed in a single case on behalf of the  
12          state or an agency thereof; authorizing the  
13          Governor, a Cabinet member, or the Attorney  
14          General to approve a higher maximum fee under  
15          certain circumstances; requiring that a higher  
16          maximum fee is subject to certain requirements  
17          for notice, review, and objection; providing an  
18          effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22           Section 1. Present subsections (7) through (16) of  
23          section 287.059, Florida Statutes, are redesignated as  
24          subsections (9) through (18), respectively, and new  
25          subsections (7) and (8) are added to that section, to read:

26           287.059 Private attorney services.--

27           (7) A contract, court order, or settlement agreement  
28          may not authorize or permit the payment, negotiation, or  
29          collection by private counsel of any attorney's fees for work  
30          performed on behalf of the state or any agency thereof in  
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1 excess of the limitations provided in this section. Fees may  
2 not exceed the lesser of:  
3 (a) A commercially reasonable amount;  
4 (b) An amount calculated in accordance with the  
5 lodestar process approved by the Florida Supreme Court, which  
6 attorney's fees shall be set by determining the number of  
7 hours reasonably expended on the matter and the reasonable  
8 hourly rate for the services provided by the private attorney  
9 or, under a contingency fee contract, the lodestar figure  
10 calculated may include a contingency risk multiplier not  
11 greater than three; or  
12 (c) Except under a contingency fee contract, \$1,000  
13 per hour actually expended on the matter by licensed  
14 attorneys, plus reasonable expenses actually incurred for  
15 costs or services other than those of licensed attorneys.  
16 (8) A contract or settlement agreement may not  
17 authorize or permit payment, negotiation, or collection by  
18 private counsel of any attorney's fees for work performed on  
19 behalf of the state or any agency thereof and paid for by the  
20 state out of the General Revenue Fund or a trust fund in a  
21 single case or legal matter in excess of \$1 million, excluding  
22 reimbursement for expenses, but including legal services  
23 provided by subcontractors, unless a specified higher maximum  
24 is approved for the particular case by the Governor for an  
25 office or agency under the direction of the Governor or  
26 approved by the Cabinet member for a department under the  
27 direction of a designated Cabinet member. Specific approval  
28 for a higher maximum fee for an agency or a department under  
29 the direction of the Governor and Cabinet must be approved by  
30 the Attorney General. Each approval of a higher maximum fee  
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1 pursuant to this subsection is subject to the procedures for  
2 notice, review, and objection provided in s. 216.177.

3 Section 2. This act shall take effect July 1, 2002.  
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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
6 COMMITTEE SUBSTITUTE FOR  
7 Senate Bill 1474

8 Revises the bill to limit the \$1 million statutory cap on  
9 attorney's fees to those cases in which representation by  
10 private counsel is performed on behalf of the state or agency  
11 thereof and paid out of the General Revenue or Trust Fund.  
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