

1 A bill to be entitled
2 An act relating to contingency fee agreements between
3 state entities and private attorneys; amending s.
4 287.059, F.S.; prohibiting the Department of Legal
5 Affairs of the Office of the Attorney General from
6 entering into a contingency fee contract with a
7 private attorney unless the Attorney General makes a
8 written determination before entering into such a
9 contract that contingency fee representation is both
10 cost-effective and in the public interest; requiring
11 that such written determination include certain
12 findings; requiring that the Attorney General, upon
13 making his or her written determination, request
14 proposals from private attorneys to represent the
15 department on a contingency fee basis unless the
16 Attorney General determines in writing that requesting
17 such proposals is not appropriate under the
18 circumstances; providing that the written
19 determination does not constitute a final agency
20 action subject to review pursuant to state law;
21 providing that the request for proposals and contract
22 award are not subject to challenge under the
23 Administrative Procedure Act; requiring that a private
24 attorney maintain detailed contemporaneous time
25 records with regard to work performed on the matter by
26 any attorneys or paralegals assigned to the matter in
27 specified increments; requiring that a private
28 attorney provide such record to the department upon

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29 request; limiting the amount of a contingency fee that
30 may be paid to a private attorney pursuant to a
31 contract with the department; requiring that copies of
32 any executed contingency fee contract and the Attorney
33 General's written determination to enter into such
34 contract be posted on the department's website within
35 a specified period after the date on which such
36 contract is executed; requiring that such information
37 remain posted on the website for a specified duration;
38 requiring that the amount of any payment of
39 contingency fees be posted on the department's website
40 within a specified period after the date on which
41 payment of such contingency fees is made to the
42 private attorney; requiring that such information
43 remain posted on the website for a specified duration;
44 providing an effective date.

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

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48 Section 1. Paragraph (c) is added to subsection (7) of
49 section 287.059, Florida Statutes, to read:

50 287.059 Private attorney services.--

51 (7)

52 (c)1. The Department of Legal Affairs shall not enter into
53 a contingency fee contract with a private attorney unless the
54 Attorney General makes a written determination before entering
55 into such a contract that contingency fee representation is both
56 cost-effective and in the public interest. A written

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57 determination must include specific findings with regard to each
58 of the following factors:

59 a. Whether sufficient and appropriate legal and financial
60 resources exist within the department to handle the matter.

61 b. The amount of time and labor required to handle the
62 matter; the novelty, complexity, and difficulty of the questions
63 involved; and the skills required to perform the necessary
64 attorney services adequately.

65 c. The geographic area in which the attorney services are
66 to be provided.

67 d. The amount of experience desired for the particular
68 kind of attorney services to be provided and the nature of the
69 private attorney's experience with regard to similar issues or
70 cases.

71 2. Upon making his or her written determination,
72 notwithstanding the exemption for legal services provided in s.
73 287.057(5)(f), the Attorney General shall request proposals from
74 private attorneys to represent the department on a contingency
75 fee basis unless the Attorney General determines in writing that
76 requesting such proposals is not appropriate under the
77 circumstances. The written determination does not constitute a
78 final agency action subject to review pursuant to ss. 120.569
79 and 120.57. For purposes of this subparagraph, the department is
80 exempt from the requirements of s. 120.57(3), and the request
81 for proposals and contract award are not subject to challenge
82 pursuant to ss. 120.569 and 120.57.

83 3. In addition to the requirements set forth in subsection
84 (16), any private attorney shall maintain detailed

85 contemporaneous time records with regard to work performed on
86 the matter by any attorneys or paralegals assigned to the matter
87 in increments of no greater than one-tenth of an hour. A private
88 attorney shall provide these records to the department promptly
89 upon request by the department.

90 4. Notwithstanding the provisions of paragraph (a), a
91 contingency fee contract entered into by the department may not
92 provide for the private attorney to receive an aggregate
93 contingency fee in excess of:

94 a. Twenty-five percent if the recovery is up to \$10
95 million;

96 b. Twenty percent if the recovery is at least \$10 million
97 but less than \$15 million;

98 c. Fifteen percent if the such recovery is at least \$15
99 million but less than \$20 million;

100 d. Ten percent if the recovery is at least \$20 million but
101 less than \$25 million; or

102 e. Five percent if the recovery is \$25 million or greater.

103 5. The aggregate contingency fee received by a private
104 attorney may not exceed \$50 million, exclusive of reasonable
105 costs and expenses, irrespective of the number of lawsuits filed
106 or the number of private attorneys retained to achieve the
107 recovery.

108 6. Copies of any executed contingency fee contract and the
109 Attorney General's written determination to enter into such
110 contract with a private attorney shall be posted on the
111 department's website for public inspection within 5 business
112 days after the date on which the contract is executed and shall

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113 remain posted on the website for the duration of the contingency
114 fee contract, including any extensions or amendments thereto.
115 The amount of any payment of contingency fees shall be posted on
116 the department's website within 15 days after the date on which
117 payment of such contingency fees is made to the private attorney
118 and shall remain posted on the website for at least 180 days
119 after that date.

120 Section 2. This act shall take effect July 1, 2008.