

By Senator Polsky

30-00066-23

20231100__

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

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 16.0156, Florida Statutes, is created to
26 read:

27 16.0156 Legal representation contracts.-

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

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

30-00066-23

20231100__

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

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

34 (2) The department may not enter into a legal
35 representation contract until the Attorney General makes a
36 written determination that such representation is both cost-
37 effective and in the public interest. The determination must
38 include specific findings regarding each of the following
39 factors:

40 (a) Whether sufficient and appropriate legal and financial
41 resources are available within the department to support the
42 contract and whether requests for proposals for legal
43 representation are feasible given the specific circumstances of
44 the case.

45 (b) The time, labor, and legal skill level required of the
46 contracted attorney and the novelty, complexity, and difficulty
47 of the questions involved in the case.

48 (c) The geographic area where the attorney services are to
49 be provided.

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

53 (3) Notwithstanding the exemption provided in s.
54 287.057(3)(e)4., after the Attorney General makes a
55 determination under subsection (2), he or she shall request
56 proposals from private attorneys to represent the department.
57 The written determination does not constitute a final agency
58 action subject to review pursuant to s. 120.569 or s. 120.57.

30-00066-23

20231100

59 For purposes of this subsection only, the department is exempt
60 from the requirements imposed by s. 120.57(3), and neither the
61 request for proposals nor the contract award is subject to
62 challenge pursuant to s. 120.569 or s. 120.57.

63 (4) In addition to the requirements set forth in s.
64 287.059(16), any contracted attorney shall maintain detailed
65 contemporaneous time records for the attorneys and paralegals
66 working on the matter in increments not exceeding 1/10 of an
67 hour and shall provide such records to the department biweekly.

68 (5) The department shall post and maintain the records on
69 the department's website for public inspection for the duration
70 of the representation. The department shall update the expenses
71 posted on the website monthly.

72 (6) Copies of any executed legal representation contract
73 and the written determination made under subsection (2) must be
74 posted on the department's website for public inspection within
75 5 business days after the date the contract is executed for the
76 duration of the representation contract, including any
77 extensions or amendments thereto. Any payment of fees to the
78 contracted attorney made pursuant to the contract must be posted
79 on the department's website within 15 days after payment and
80 must remain posted on the website for at least 365 days
81 thereafter.

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

87 (a) Identify all legal representation contracts entered

30-00066-23

20231100__

88 into under this section during that year and all such contracts
89 previously executed which remain current during any part of that
90 year. The report must identify all of the following for each
91 such contract:

92 1. The name of the private attorney with whom the
93 department has contracted, including the name of the attorney's
94 law firm.

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

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

97 4. The amount of any recovery.

98 5. The amount of any fee paid.

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

101 Section 2. This act shall take effect July 1, 2023.