

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 those
18 records to the department at specified intervals;
19 requiring the department to post and maintain
20 specified information on its website; requiring the
21 Attorney General to submit an annual report to the
22 Legislature by a specified date; specifying
23 requirements for the report; providing an effective
24 date.

25
26 Be It Enacted by the Legislature of the State of Florida:
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28 Section 1. Present paragraphs (a) and (b) of subsection (1)
29 of section 16.0155, Florida Statutes, are redesignated as

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30 paragraphs (b) and (c), respectively, and a new paragraph (a) is
31 added to that subsection, to read:

32 16.0155 Contingency fee agreements.-

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

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

39 Section 2. Section 16.0156, Florida Statutes, is created to
40 read:

41 16.0156 Legal representation contracts.-

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

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

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

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

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

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

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

62 (c) The geographic area where the attorney services are to
63 be provided.

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

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

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

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

86 (6) Copies of any executed legal representation contract
87 and the written determination made under subsection (2) must be

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88 posted on the department's website for public inspection within
89 5 business days after the date the contract is executed and must
90 remain posted on the website for the duration of the
91 representation contract, including any extensions or amendments
92 thereto. Any payment of fees to the contracted attorney made
93 pursuant to the contract must be posted on the department's
94 website within 15 days after such payment and must remain posted
95 on the website for at least 365 days thereafter.

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

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

107 1. The name of the private attorney with whom the
108 department has contracted, including the name of the attorney's
109 law firm.

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

111 3. The names of the parties to the legal matter.

112 4. The amount of any recovery.

113 5. The amount of any fee paid.

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

116 Section 3. This act shall take effect July 1, 2025.