

1 HB267
2 107195-1
3 By Representative Mask
4 RFD: Judiciary
5 First Read: 14-JAN-10

2
3
4
5
6
7
8 SYNOPSIS: This bill would establish the Alabama
9 Private Attorney Retention Sunshine Act; provide
10 for the submission of proposed legal contracts to
11 the Contract Review Committee for approval or
12 disapproval; and would limit the amount of fees for
13 legal services.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To establish the Alabama Private Attorney Retention
20 Sunshine Act; provide for the submission of proposed legal
21 contracts to the Contract Review Committee for approval or
22 disapproval; and would limit the amount of fees for legal
23 services.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. This act shall be known and may be cited
26 as the Alabama Private Attorney Retention Sunshine Act.

27 Section 2. For purposes of this act:

1 (1) A contract in excess of one million dollars
2 (\$1,000,000) is one in which the fee paid to an attorney or
3 group of attorneys, either in the form of a flat, hourly, or
4 contingent fee, and their expenses, exceeds or can be
5 reasonably expected to exceed one million dollars
6 (\$1,000,000).

7 (2) Fees shall include any compensation for legal
8 services however measured, including, but not limited to, flat
9 hourly and contingent fees.

10 Section 3. Any state agency or state official that
11 wishes to retain an attorney or a law firm to perform legal
12 services on behalf of the state or state official, where the
13 fees and expenses will exceed or be reasonably expected to
14 exceed one hundred thousand dollars (\$100,000), shall not do
15 so until an open and competitive bidding process has been
16 undertaken and completed.

17 Section 4. No state agency or state official shall
18 enter into a contract for legal services exceeding one million
19 dollars (\$1,000,000) without the opportunity for at least one
20 hearing before the Contract Review Committee on the terms of
21 the legal contract in accordance with Section 5.

22 Section 5. (a) A state agency or state official
23 entering into a contract for legal services in excess of one
24 million dollars (\$1,000,000) shall file a copy of the proposed
25 contract with the Clerk of the Contract Review Committee.

26 (b) The proposed contract shall be accompanied with
27 a written statement that identifies all of the following:

1 (1) The reasons the state should retain private
2 counsel and the consideration of alternatives.

3 (2) The reasons for the selection of the lawyer or
4 law firm that is the proposed contracting party.

5 (3) The past or present relationship, if any,
6 between such lawyer, law firm, or any partner or other
7 principal in such law firm and the state agency or state agent
8 proposing to enter into the contract.

9 (4) If the contract contemplates that all or part of
10 the fee is contingent on the outcome of the legal proceeding,
11 the reasons the contingent fee arrangement is believed to be
12 in the state's interest and any efforts undertaken to obtain
13 private counsel on a non-contingent fee basis.

14 (c) The Contract Review Committee shall hold a
15 public hearing on the proposed contract and shall issue a
16 report to the referring agency or official. The report shall
17 include any proposed changes to the proposed contract voted
18 upon by the committee. The state agency or state official
19 shall review the report and adopt a final contract as deemed
20 appropriate in view of the report and file it with the clerk
21 of the committee. If the proposed contract does not contain
22 the changes proposed by the committee, the referring state
23 agency or state official shall send a letter to the clerk
24 accompanying the final contract stating the reasons why the
25 proposed changes were not adopted. The clerk shall refer the
26 letter and final contract to the committee. Not earlier than

1 45 days after such filing, the state agency or state official
2 shall enter into the final contract.

3 (d) If no proposed changes are made to the contract
4 by the committee within 60 days of the initial filing, the
5 state agency or state official may enter into the contract.

6 (e) Nothing in this act shall be construed to expand
7 the authority of any state agency or state official to enter
8 into contracts where no such authority previously existed.

9 Section 6. (a) At the conclusion of any legal
10 proceeding for which a state agency or state official retained
11 outside counsel on a contingent fee basis, the state or
12 official shall receive from counsel a statement of the hours
13 worked on the case, expenses incurred, the aggregate fee
14 amount, and a breakdown as to the hourly rate, based on hours
15 worked divided into the fee recovered less expenses. In no
16 case shall the state incur fees and expenses in excess of one
17 thousand dollars (\$1,000) per hour for legal services.

18 Section 7. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.