

2016 Regular Session

SENATE BILL NO. 136

BY SENATOR WARD

JUSTICE DEPARTMENT. Provides relative to the employment of special attorneys or counsel. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 42:262(B) and (D) and R.S. 49:259(C)(2) and to enact R.S.  
3 49:259(F), relative to the employment of special attorneys or counsel; to provide  
4 certain terms, conditions, exceptions, requirements, definitions, and procedures; and  
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 42:262(B) and (D) are hereby amended and reenacted to read as  
8 follows:

9 §262. Special attorney or counsel

10 \* \* \*

11 B. Any recovery or award of attorney fees, including settlement, in litigation  
12 involving the attorney general or any state agency, board, or commission, not  
13 including any public postsecondary education institution, belongs to the state and  
14 shall be deposited into the state treasury into the Department of Justice Legal  
15 Support Fund in accordance with R.S. 49:259. No payment of attorney fees shall be  
16 made out of state funds in the absence of express statutory authority, including R.S.  
17 17:100.10, R.S. 23:1669, R.S. 37:2153, R.S. 41:724 and 922, R.S. 42:1157.3, R.S.

1 46:15, R.S. 47:1512, 1515.3, 1516, 1516.1, and 1676, except such payment of  
2 attorney fees as may be approved by **the litigation subcommittee of** the Joint  
3 Legislative Committee on the Budget ~~during the interim between legislative sessions.~~

4 \* \* \*

5 D. All contracts with any special attorney or counsel shall require the keeping  
6 of accurate records of the hours worked and the expenses incurred in the  
7 representation of the public entity. In no case shall the attorney general, or any state  
8 agency, board, or commission, not including any public postsecondary education  
9 institution, incur fees in excess of ~~five hundred~~ **one thousand** dollars per hour **per**  
10 **person** for legal services. ~~In the event of a settlement or final judgment which would~~  
11 ~~result in an award of attorney fees in excess of five hundred dollars per hour, the fee~~  
12 ~~amount shall be reduced to an amount equivalent to five hundred dollars per hour,~~  
13 ~~or the maximum rate approved by the Attorney Fee Review Board, whichever is~~  
14 ~~greater.~~

15 \* \* \*

16 Section 2. R.S. 49:259(C)(2) is hereby amended and reenacted and R.S. 49:259(F)  
17 is hereby enacted to read as follows:

18 §259. Department of Justice Legal Support Fund

19 \* \* \*

20 C.

21 \* \* \*

22 (2) No employee salary or wages or other expenses, to be paid from the  
23 recovery or award of any attorney fees as provided in R.S. 42:262 shall be paid by  
24 the Department of Justice, until funding is approved by **the litigation subcommittee**  
25 **of** the Joint Legislative Committee on the Budget.

26 \* \* \*

27 **F. Any contract for representation under this Section that provides for**  
28 **an hourly fee of seven hundred fifty dollars or more shall be reported to the**  
29 **Joint Legislative Committee on the Budget within ninety days of the execution**

1            **of the contract.**

2            Section 3. This Act shall become effective upon signature by the governor or, if not  
 3 signed by the governor, upon expiration of the time for bills to become law without signature  
 4 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 5 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 6 effective on the day following such approval.

---

The original instrument was prepared by Benjamin A. Huxen, II. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ann S. Brown.

---

## DIGEST

SB 136 Reengrossed

2016 Regular Session

Ward

Present law provides that no payment of attorney fees shall be made out of state funds in the absence of express statutory authority, except such payment of attorney fees as may be approved by the Joint Legislative Committee on the Budget during the interim between legislative sessions.

Proposed law eliminates that requirement and provides that the litigation subcommittee of the Joint Legislative Committee on the Budget can approve such fees at any time.

Present law provides that the attorney general, or any state agency, board, or commission, not including any public postsecondary education institution, cannot incur fees for legal services in excess of the greater of (1) \$500 per hour per person or (2) the maximum rate approved by the Attorney Fee Review Board.

Proposed law changes the limitation to \$1,000 per hour per person.

Proposed law provides that any contract with an hourly fee of \$750 or more, paid from the Dept. of Justice Legal Support Fund, shall be reported to the Joint Legislative Committee on the Budget within 90 days of the contract's execution.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 42:262(B) and (D) and R.S. 49:259(C)(2); adds R.S. 49:259(F))

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Deleted repeal of provisions providing certain exemptions from deposits of funds into Dept. of Justice Legal Support Fund.

Senate Floor Amendments to engrossed bill

1. Provides for reporting requirements on certain contracts paid for by money in the Dept. of Justice Legal Support Fund.