

HOUSE _____ AMENDMENT NO. _____

Offered By

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 0029,
Page 1, Section A, Line 7, by inserting after all of said section and line the following:

"34.376. 1. Sections 34.376 to 34.380 may be known as the "Transparency in Private
Attorney Contracts Act".

2. As used in sections 34.376 to 34.380, the following terms shall mean:

(1) "Government attorney", an attorney employed by the state as an assistant attorney
general;

(2) "Private attorney", any private attorney or law firm;

(3) "State", the state of Missouri, in any action instituted by the attorney general pursuant
to section 27.060.

34.378. 1. The state shall not enter into a contingency fee contract with a private attorney
unless the attorney general makes a written determination prior to entering into such a contract
that contingency fee representation is both cost-effective and in the public interest. Any written
determination shall include specific findings for each of the following factors:

(1) Whether there exists sufficient and appropriate legal and financial resources within the
attorney general's office to handle the matter;

(2) The time and labor required; the novelty, complexity, and difficulty of the questions
involved; and the skill requisite to perform the attorney services properly;

(3) The geographic area where the attorney services are to be provided; and

(4) The amount of experience desired for the particular kind of attorney services to be
provided and the nature of the private attorney's experience with similar issues or cases.

2. If the attorney general makes the determination described in subsection 1 of this
section, the attorney general shall request written proposals from private attorneys to represent the
state, unless the attorney general determines that requesting proposals is not feasible under the
circumstances and sets forth the basis for this determination in writing. If a request for proposals
is issued, the attorney general shall choose the lowest and best bid or request the office of
administration establish an independent panel to evaluate the proposals and choose the lowest and
best bid.

3. The state may not enter into a contingency fee contract that provides for the private

1 attorney to receive an aggregate contingency fee in excess of twenty-five percent of the net
2 recovery to the state.

3 4. The state shall not enter into a contract for contingency fee attorney services unless the
4 following requirements are met throughout the contract period and any extensions to the contract:

5 (1) The government attorneys shall retain complete control over the course and conduct of
6 the case;

7 (2) A government attorney with supervisory authority shall oversee the litigation;

8 (3) The government attorneys shall retain veto power over any decisions made by outside
9 counsel;

10 (4) A government attorney with supervisory authority for the case shall attend all
11 settlement conferences; and

12 (5) Decisions regarding settlement of the case shall be reserved exclusively to the
13 discretion of the attorney general.

14 5. The attorney general shall develop a standard addendum to every contract for
15 contingent fee attorney services that shall be used in all cases, describing in detail what is
16 expected of both the contracted private attorney and the state, including, without limitation, the
17 requirements listed in subsection 4 of this section.

18 6. Copies of any executed contingency fee contract and the attorney general's written
19 determination to enter into a contingency fee contract with the private attorney shall be posted on
20 the attorney general's website for public inspection within five business days after the date the
21 contract is executed and shall remain posted on the website for the duration of the contingency fee
22 contract, including any extensions or amendments to the contract. Any payment of contingency
23 fees shall be posted on the attorney general's website within fifteen days after the payment of such
24 contingency fees to the private attorney and shall remain posted on the website for at least three
25 hundred sixty-five days.

26 7. Any private attorney under contract to provide services to the state on a contingency fee
27 basis shall, from the inception of the contract until at least four years after the contract expires or
28 is terminated, maintain detailed current records, including documentation of all expenses,
29 disbursements, charges, credits, underlying receipts and invoices, and other financial transactions
30 that concern the provision of such attorney services. The private attorney shall maintain detailed
31 contemporaneous time records for the attorneys and paralegals working on the matter in
32 increments of no greater than one tenth of an hour and shall promptly provide these records to the
33 attorney general, upon request. Any request under chapter 610 for inspection and copying of such
34 records shall be served upon and responded to by the attorney general's office.

35 8. By February first of each year, the attorney general shall submit a report to the president
36 pro tem of the senate and the speaker of the house of representatives describing the use of

1 contingency fee contracts with private attorneys in the preceding calendar year. At a minimum,
2 the report shall:

3 (1) Identify all new contingency fee contracts entered into during the year and all
4 previously executed contingency fee contracts that remain current during any part of the year, and
5 for each contract describe:

6 (a) The name of the private attorney with whom the department has contracted, including
7 the name of the attorney's law firm;

8 (b) The nature and status of the legal matter;

9 (c) The name of the parties to the legal matter;

10 (d) The amount of any recovery; and

11 (e) The amount of any contingency fee paid.

12 (2) Include copies of any written determinations made under subsections 1 and 2 of this
13 section.

14 34.380. Nothing in sections 34.376 to 34.380 shall be construed to expand the authority of
15 any state agency or state agent to enter into contracts where no such authority previously existed.”;
16 and

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18 Further amend said bill by amending the title, enacting clause, and intersectional references
19 accordingly.
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