

HOUSE BILL NO. 3347

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MURPHY.

7261H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 67, RSMo, by adding thereto one new section relating to legal contracts entered into by political subdivision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.5500, to read as follows:

67.5500. 1. As used in this section, the following terms shall mean:

(1) "Contingent fee", any fee that is contingent on the outcome of the matter for which the service is rendered;

(2) "Political subdivision", shall include:

(a) A political or taxing subdivision of this state, including municipal and quasi-municipal corporations, boards, commissions, authorities, councils, committees, subcommittees, and other subordinate groups or administrative units thereof, receiving or expending and supported by, in whole or in part, public funds; and

(b) Any municipality that is a city, town, or village that is incorporated in accordance with the laws of this state.

2. A political subdivision may enter into a contingent fee contract for legal services only if the governing body of the political subdivision:

(1) Calls an official public meeting for the purpose of considering the contract and provides in the notice of the meeting the following:

(a) Reasons for pursuing the matter that is the subject of the legal services for which the attorney or law firm would be retained and the desired outcome of pursuing the matter;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

18 **(b) Qualifications, experience, and competence of the attorney or law firm**
19 **selected by the governing body;**

20 **(c) The nature of any relationship, regardless of duration, between the political**
21 **subdivision or governing body and the attorney or law firm that is a party to the**
22 **contract;**

23 **(d) Reasons the legal services cannot be adequately performed by the attorneys**
24 **and supporting personnel of the political subdivision;**

25 **(e) Reasons the legal services cannot be reasonably obtained from attorneys**
26 **under a contract providing for an hourly rate payment structure as opposed to a**
27 **contingency fee structure; and**

28 **(f) Reasons why entering into a contingent fee contract for legal services is in the**
29 **best interest of the residents of the political subdivision; and**

30 **(2) Makes a written finding that:**

31 **(a) There is a substantial need for the legal services that are the subject of the**
32 **contingent fee contract;**

33 **(b) The legal services cannot be adequately performed by the attorneys and**
34 **supporting personnel of the political subdivision;**

35 **(c) The legal services cannot reasonably be obtained from attorneys under a**
36 **contract providing for an hourly rate payment structure because of the nature of the**
37 **legal matter that is the subject of the contract or because the political subdivision does**
38 **not have the funds necessary to pay the estimated cost of the legal services provided**
39 **under a contract providing for an hourly rate payment structure; and**

40 **(d) Approves the contract in an open meeting after discussion and consideration**
41 **of the items in subdivision (1) of this subsection.**

42 **3. A contingent fee contract for legal services between a political subdivision and**
43 **an attorney or law firm shall:**

44 **(1) Provide that the political subdivision retains ultimate control over the course**
45 **and conduct of the case;**

46 **(2) Provide that final approval regarding resolution of the case is reserved**
47 **exclusively to the political subdivision; and**

48 **(3) Not provide for the private attorney or law firm to receive a contingency fee**
49 **that exceeds the levels provided by subsections 7 and 8 of section 34.378.**

50 **4. Before a contingency fee contract for legal services approved by a political**
51 **subdivision is effective and enforceable, the political subdivision shall obtain approval of**
52 **the contract from the attorney general. The political subdivision shall provide to the**
53 **attorney general:**

54 **(1) A copy of the proposed contract;**

55 (2) A description of the legal matter that is the subject of the proposed contract;

56 (3) A copy of the notice issued under subdivision (1) of subsection 2 of this
57 section, the date such notice was issued, and a description of the method for providing
58 such notice; and

59 (4) A copy of the written findings made under subdivision (2) of subsection 2 of
60 this section.

61 5. The attorney general shall, within forty-five days after the political
62 subdivision has provided the attorney general with the information described
63 subsection 3 of this section:

64 (1) Approve the contract and, if the request involves a matter of purely local
65 concern that does not implicate any statewide interest, shall do so promptly; or

66 (2) Refuse to approve the contract for one of the following reasons:

67 (a) The legal matter that is the subject of the contract presents one or more
68 questions of law or fact that are in common with a matter the state has already
69 addressed or is pursuing;

70 (b) The legal matter involves claims or issues that are more appropriately within
71 the scope of state enforcement and the pursuit of the matter independently by the
72 political subdivision could lead to inconsistent legal outcomes or undermine the state's
73 unified position; or

74 (c) The contract does not comply with the Missouri rules of professional conduct
75 for attorneys adopted by the Missouri supreme court.

76 6. If the attorney general has not taken action on a contract under subsection 5
77 of this section within forty-five days of receipt, such contract shall be deemed approved.

78 7. In any judicial or quasi-judicial proceeding in which a political subdivision is
79 represented by an attorney providing legal services under a contingent fee contract for
80 legal services that does not comply with the provisions of this section, the attorney
81 general may appear in such proceeding and request that the proceeding be dismissed. If
82 the court or quasi-judicial body concludes that the contract for legal services does not
83 comply with the provisions of this section, the court or quasi-judicial body shall dismiss
84 the matter without prejudice.

85 8. The attorney general shall review the contract and approve or refuse to
86 approve the contract under subsection 5 of this section. Any judicial or quasi-judicial
87 proceeding that is ongoing involving a contingent fee contract for legal services entered
88 into by a political subdivision shall proceed unless the attorney general appears in such
89 proceeding as described in subsection 7 of this section.

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