

SHORT TITLE: State government; employment of attorneys; correcting language. Effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1290

By: Williamson

AS INTRODUCED

An Act relating to state government; amending Section 1, Chapter 180, O.S.L. 1995 (74 O.S. Supp. 1997, Section 20i), which relates to employing attorneys; correcting language; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 180, O.S.L. 1995 (74 O.S. Supp. 1997, Section 20i), is amended to read as follows:

Section 20i. A. An agency or official of the executive branch may obtain legal representation by one or more attorneys by means of one of the following:

1. Employing an attorney ~~as such~~ if otherwise authorized by law;

2. Contracting with the Office of the Attorney General; or

3. If the Attorney General is unable to represent the agency, or official due to a conflict of interest, or the Office of the Attorney General is unable or lacks the personnel or expertise to provide the specific representation required by such agency or official, contracting with a private attorney or attorneys pursuant to this section.

B. When entering into a contract for legal representation by one or more private attorneys, an agency or official of the

executive branch shall select an attorney or attorneys from a list of attorneys maintained by the Attorney General. An agency may contract for legal representation with one or more attorneys who are not on the list only when there is no attorney on the list capable of providing the specific representation and only with the approval of the Attorney General. The list shall include any attorney who desires to furnish services to an agency or official of the executive branch and who has filed a schedule of fees for services with and on a form approved by the Attorney General. An agency or official may agree to deviate from the schedule of fees only with the approval of the Attorney General.

C. Before entering into a contract for legal representation by one or more private attorneys, an agency or official of the executive branch shall furnish a copy of the proposed contract to the Attorney General and, if not fully described in the contract, notify the Attorney General of the following:

1. The nature and scope of the representation including, but not limited to, a description of any pending or anticipated litigation or of the transaction requiring representation;

2. The reason or reasons for not obtaining the representation from an attorney employed by the agency or official, if an attorney is employed by the agency or official;

3. The reason or reasons for not obtaining the representation from the Attorney General by contract;

4. The anticipated cost of the representation including the following:

- a. the basis for or method of calculation of the fee including, when applicable, the hourly rate for each attorney, paralegal, legal assistant, or other person who will perform services under the contract, and

b. the basis for and method of calculation of any expenses which will be reimbursed by the agency or official under the contract; and

5. An estimate of the anticipated duration of the contract.

D. Before entering into a contract for legal representation by one or more private attorneys where the agency has reason to believe that the case, transaction or matter will equal or exceed Twenty Thousand Dollars (\$20,000.00) or after employment when it becomes apparent that the case, transaction or matter will equal or ~~exceeds~~ exceed Twenty Thousand Dollars (\$20,000.00), an agency or official of the executive branch shall obtain the approval of the Attorney General and the General Counsel of the Office of the Governor when the total cost, including fees and expenses, of all contracts relating to the same case, transaction, or matter will equal or exceed Twenty Thousand Dollars (\$20,000.00). Any amendment, modification, or extension of a contract which, had it been a part of the original contract would have required approval by the Attorney General and the General Counsel of the Office of the Governor, shall also require approval by the Attorney General and the General Counsel of the Office of the Governor.

E. When an agency or official of the executive branch enters into a contract for professional legal services pursuant to this section, the agency shall also comply with the applicable provisions of Section 85.41 of ~~Title 74 of the Oklahoma Statutes~~ this title.

F. The provisions of this section shall not apply to the Oklahoma Indigent Defense System created pursuant to Section 1355 et seq. of Title 22 of the Oklahoma Statutes.

G. The Attorney General shall, on or before February 1 of each year, make a written report on legal representation obtained pursuant to paragraphs 2 and 3 of subsection A of this section. The report shall include a brief description of each contract, the circumstances necessitating each contract, and the amount paid or to

be paid under each contract. The report shall be filed with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chair of the Appropriations and Budget Committee of the House of Representatives, and the Chair of the Appropriations Committee of the Senate.

SECTION 2. This act shall take effect on November 1, 1998.

46-2-2539

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