

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 899

By: Pruitt

AS INTRODUCED

An Act relating to competitive bidding; creating the Private Attorney Retention Sunshine Act; providing short title; defining terms; requiring competitive bidding for certain contracts; requiring legislative hearing on certain contracts; stating procedures for hearing on and adoption of certain contracts; providing for certain interim committee under certain circumstances; permitting certain extension of time; construing act; requiring certain statement; setting limits on contingent fees; declaring certain contracts void; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.7d of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Private Attorney Retention Sunshine Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.7e of Title 74, unless there is created a duplication in numbering, reads as follows:

For the purposes of the Private Attorney Retention Sunshine Act:

1. "Contract for legal services" means a contract in which a fee is paid to an outside lawyer or group of outside lawyers, in the form of a flat, hourly, or contingent fee, and any expenses of the lawyer or group of lawyers; and

2. "State agency" means any office, officer, bureau, board, counsel, court, commission, institution, unit, division, body or house of the executive or judicial branches of the state government,

whether elected or appointed, excluding only political subdivisions of this state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.7f of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other provision of law, any state agency entering into a contract for legal services pursuant to this act with a lawyer or group of lawyers to perform legal services on behalf of this state, which contract is reasonably expected by the state agency to result in legal fees of Five Thousand Dollars (\$5,000.00) or more, shall comply with the competitive bidding process pursuant to the Oklahoma Central Purchasing Act.

B. No state agency shall enter into a contract for legal services exceeding One Million Dollars (\$1,000,000.00) without the opportunity for at least one hearing in the Legislature on the terms of the legal contract in accordance with subsection C of this section.

C. 1. Any state agency entering into a contract for legal services in excess of One Million Dollars (\$1,000,000.00), pursuant to subsection B of this section, shall file a copy of the proposed contract with the Chief Clerk of the House of Representatives, who, with the approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives, shall refer the proposed contract to the appropriate committee.

2. Within thirty (30) days after referral of the contract, the committee may hold a public hearing on the proposed contract and shall issue a report to the referring state agency. The report shall include any changes to the proposed contract voted upon by the committee. The state agency shall review the report and adopt a proposed final contract as deemed appropriate in view of the report and shall file the proposed final contract with the Chief Clerk.

3. If the proposed final contract does not contain the changes proposed by the committee, the referring state agency shall send a letter to the Chief Clerk accompanying the final contract stating the reasons why the proposed changes were not adopted. The Chief Clerk shall refer the letter and proposed final contract to the appropriate committee. Not earlier than forty-five (45) days after the filing of the letter and proposed final contract with the committee, the state agency shall enter into the final contract.

4. If no proposed changes to the proposed contract are made to the state agency within sixty (60) days of the initial filing of the proposed contract or any amendment to or repeal of the proposed contract with the Chief Clerk, the state agency may enter into the contract.

5. In the event that the Legislature is not in session and the Attorney General wishes to execute a contract for legal services, the Governor with the unanimous consent of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, may establish a five-member interim committee consisting of five (5) state legislators, one each to be appointed by the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the minority leader in each house of the Legislature to execute the oversight duties as set forth in this subsection.

6. Identical deadlines and reporting responsibilities shall apply to the Attorney General and the interim committee as would apply to a committee of the Legislature executing its duties set forth in this subsection.

7. In any action in which any state agency is a defendant and a contract for legal services is to be entered into in accordance with this act, the district court may continue the action at any stage of the proceedings to provide an extension of time in order to provide

the time required for the state agency to comply with the provisions of this act.

D. Nothing in this act shall be construed to expand the authority of any state agency to enter into contracts where no such authority previously existed.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.7g of Title 74, unless there is created a duplication in numbering, reads as follows:

A. At the conclusion of any legal proceeding for which a state agency retained an outside lawyer or a group of outside lawyers on a contingent fee basis, the state shall receive from the lawyer or group of lawyers a statement of the hours worked on the case, expenses incurred, the aggregate fee amount, and a breakdown as to the hourly rate, based on hours worked divided into fee recovered, less expenses.

B. In no case shall the state incur fees and expenses in excess of One Thousand Dollars (\$1,000.00) per hour for legal services. In cases where a disclosure submitted in accordance with subsection A of this section indicates an hourly rate in excess of One Thousand Dollars (\$1,000.00) per hour, the fee amount shall be reduced to an amount equivalent to One Thousand Dollars (\$1,000.00) per hour.

C. On and after November 1, 2002, any contract entered into in violation of this act shall be null and void.

SECTION 5. This act shall become effective November 1, 2002.

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