

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1379
Page _____ Section _____ Lines _____
Of the printed Bill
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Mark McCullough _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1379

By: Sykes and Jolley of the
Senate

7 and

McCullough of the House

8
9
10 PROPOSED COMMITTEE SUBSTITUTE

11 [state government - enacting the Private Attorney

12 Retention Sunshine Act - codification -

13 effective date]

14
15
16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 20.1 of Title 74, unless there
19 is created a duplication in numbering, reads as follows:

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

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 20.2 of Title 74, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Any state agency or state agent that wishes to retain a
2 lawyer or law firm to perform legal services on behalf of this
3 state, where the fees and expenses for the services will exceed or
4 can be reasonably expected to exceed Five Thousand Dollars
5 (\$5,000.00), shall not do so until a request for proposal process
6 has been undertaken.

7 B. The contracting agency shall cause an Internet website
8 controlled by or on behalf of the agency to contain a conspicuous
9 statement, visible from the main webpage or equivalent segment of
10 the website, that after one hundred twenty (120) days after the
11 contract for which the request for proposals has been awarded, any
12 person may obtain a copy of the request for proposal from the agency
13 which prepared it and the identity of all persons or entities to
14 whom the request for proposal was transmitted.

15 C. Each agency subject to the provisions of this section shall
16 maintain a list of the persons and entities to whom a request for
17 proposal has been transmitted, including the mailing address to
18 which the proposal was mailed, and shall make such information
19 available for inspection within one hundred twenty (120) days after
20 the contract has been awarded.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 20.3 of Title 74, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. The request for proposal required by Section 2 of this act
2 and all responses submitted to the request for proposals shall be
3 made accessible through an Internet website maintained by or on
4 behalf of the state agency.

5 B. When the request for proposal has been made accessible on
6 the Internet website, the information shall remain accessible
7 through the website for a period of three (3) years after the
8 request is transmitted by the agency to potentially interested
9 persons.

10 C. The identity of a vendor to whom or to which an agency has
11 awarded a contract in response to a request for proposals, a brief
12 description of the services to be performed under the contract, the
13 projected total payments to be made under the contract, the actual
14 payments made under the contract, once made, and the date the
15 contract was awarded shall be accessible on the Internet website for
16 a period of three (3) years from the date the contract is awarded.

17 D. All information required to be accessible by the provisions
18 of this section or any document that the agency makes accessible
19 pursuant to Section 2 of this act shall be presented in a format
20 which allows complete review of the content of such documents.

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 20.4 of Title 74, unless there
23 is created a duplication in numbering, reads as follows:

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1 No state agency or state agent shall enter into a contract for
2 legal services exceeding Five Hundred Thousand Dollars (\$500,000.00)
3 without the opportunity for an executive review of the terms of the
4 contract in accordance with Section 5 of this act.

5 SECTION 5. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 20.5 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 A. For purposes of this section, a contract in excess of Five
9 Hundred Thousand Dollars (\$500,000.00) is one in which the fee paid
10 to an attorney or group of attorneys, either in the form of a flat,
11 hourly, or contingent fee, and expenses of the attorney or group of
12 attorneys exceeds or can be reasonably expected to exceed Five
13 Hundred Thousand Dollars (\$500,000.00).

14 B. As used in this section, "fees" shall include, but not be
15 limited to, any compensation for legal services however measured,
16 including but not limited to flat, hourly, and contingent fees.

17 C. Any state agency or state agent proposing to enter into a
18 contract for legal services exceeding Five Hundred Thousand Dollars
19 (\$500,000.00) shall file a copy of the proposed contract with the
20 Governor and shall also accompany the proposed contract with a
21 written statement that identifies the following:

22 1. The reasons the state should retain private counsel and the
23 consideration of alternatives;

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1 2. The request for proposal process that has been undertaken
2 with respect to the proposed legal services;

3 3. The reasons for the selection of the lawyer or law firm that
4 is the proposed contracting party;

5 4. The past or present relationship, if any, between the
6 lawyer, law firm, or any partner or other principal in the law firm
7 and the state agency or state agent proposing to enter into the
8 contract; and

9 5. If the contract contemplates that all or part of the fee is
10 contingent on the outcome of the legal proceeding, the reasons the
11 contingent fee arrangement is believed to be in the interest of the
12 state and any efforts undertaken to obtain private counsel on a
13 noncontingent-fee basis.

14 D. Except as provided in subsection G of this section, the
15 Governor shall review the proposed contract and written statement
16 within thirty (30) days of receipt.

17 E. The Governor may hold a public hearing on the proposed
18 contract and, whether or not a public hearing is held, shall issue a
19 report to the referring state agency or state agent. The report
20 shall include any recommended changes to the proposed contract
21 approved by the Governor. If the Governor recommends no changes to
22 the proposed contract within thirty (30) days of the receipt, the
23 referring state agency or state agent may enter into the proposed
24 contract. If the report of the Governor recommends changes to the

1 proposed contract in accordance with this subsection, the state
2 agency or state agent shall review the report and prepare a revised
3 contract as deemed appropriate in view of the report and shall file
4 with the Governor a copy of the revised contract.

5 F. If the revised contract does not contain all changes
6 recommended by the Governor, the referring state agency or state
7 agent shall include with the revised contract filed with the
8 Governor a letter stating the reasons why the recommended changes
9 were not adopted. The Governor may hold additional hearings and
10 issue additional reports in the discretion of the Governor. Not
11 earlier than thirty (30) days after receipt of the letter and
12 revised contract from the Governor, the referring state agency or
13 state agent may enter into the revised contract. Any revised
14 contract containing terms not previously reviewed or recommended by
15 the Governor that can reasonably be expected to increase the fees
16 and expenses to be paid shall be treated as a new proposed contract
17 and shall be filed and reviewed in accordance with the provisions of
18 this section.

19 G. In the event the state agency or state agent in a writing
20 filed with the Governor states that time exigencies require that the
21 state retain counsel before the periods provided in subsections C,
22 D, E and F of this section have elapsed, and provides the reasons
23 therefor, the Governor shall consult with the state agency or state
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1 agent to establish an expedited schedule for review and
2 recommendations on the proposed contract.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 20.6 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 A. At the conclusion of any legal proceeding for which a state
7 agency or agent retained outside counsel on a contingency-fee basis,
8 the state shall receive from counsel a statement of the hours worked
9 on the case, expenses incurred, the aggregate fee amount, and a
10 breakdown as to the hourly rate based on hours worked divided into
11 fee recovered, less expenses.

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

18 SECTION 7. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 20.7 of Title 74, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Nothing in the Private Attorney Retention Sunshine Act shall
22 be construed to expand the authority of any state agency or state
23 agent to enter into contracts where no such authority previously
24 existed.

1 B. Contracts entered into pursuant to the Private Attorney
2 Retention Sunshine Act shall not be subject to the Oklahoma Central
3 Purchasing Act, and the request for proposal process shall be
4 subject to the discretion of the agency head or his or her designee.

5 C. Except for the provisions in subsections B and C of Section
6 2 and Section 3 of this act, nothing in the Private Attorney
7 Retention Sunshine Act shall apply to the Oklahoma Department of
8 Transportation.

9 D. Except for the provisions in subsections B and C of Section
10 2 and Section 3 of this act, nothing in the Private Attorney
11 Retention Sunshine Act shall apply to the Oklahoma Turnpike
12 Authority as it relates to the hiring of private attorneys for bond
13 issuance by the Authority.

14 SECTION 8. This act shall become effective November 1, 2010

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16 52-2-10505 LRB 04/01/10

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