

BILL SUMMARY
1st Session of the 52nd Legislature

Bill No.:	HB 2167
Version:	Senate Amendment
Author:	Representative McCullough/ Senator Sykes
Date:	May 4, 2009
Impact:	State Agencies: Potential Legal Services Savings

Bill Summary

Research Analyst: Dante Giancola

Senate Amendment 1 to HB2167 adds language stating that contracts pursuant to the Private Attorney Retention Sunshine Act are not subject to the Oklahoma Central Purchasing Act and that the request for proposal process is to be subject to the discretion of the agency head or his/her designee. The amendment also establishes for agencies a 120-day timeframe – as opposed to “a reasonable period of time,” – for making publicly available any proposals, and any list of persons to whom a request for proposal was transmitted.

HB2167 creates the Private Attorney Retention Sunshine Act. This Act prohibits a state agency or agent from retaining legal services in which services are expected to exceed \$5000 without first undergoing a request for proposal process. The Act requires a contracting agency to post in a conspicuous location on their website, a statement that a copy of the request for proposal will be made available to any person by the agency. Information about the vendor awarded the contract, including services to be performed and projected total payments shall also be posted on the site.

For proposed contracts for legal services that are expected to exceed \$500,000, the state agency or agent must file a copy with the Governor’s office where the proposed contract shall be reviewed. The Governor has thirty days to review and recommend any changes to the proposed contract. If there are no recommended changes the contract may be executed. If changes are recommended, the agency or agent must review the Governor’s recommendations and revise the contract. If the agency or agent chooses not include all the Governor’s recommendations, it must state why it chose not to adopt them.

Finally, at the conclusion of any legal proceeding for which a state agency or agent retained outside counsel on a contingency-fee basis, it is required that the state receives from counsel 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. In no case may the legal services charged exceed \$1000 per hour.

Fiscal Summary

Fiscal Analyst: Terry McKenna

The Senate Amendment to EHB 2167 relates to the period of time after which a request for proposal has been awarded that the awarding agency must make a copy available to the requesting public. The amendment changes the time period from “a reasonable period of time” to “120 days.” The measure also exempts contracts entered into pursuant to this act from the provisions of the Oklahoma Central Purchasing Act.

EHB 2167 creates the “Private Attorney Retention Sunshine Act.” The measure provides that any state agency or state agent that wishes to retain a lawyer or law firm to perform legal services on behalf of the state, where the fees and expenses of those services are expected to exceed \$5,000, shall not do so until a request for proposal process has been undertaken. The contracting agency’s Internet website shall contain a conspicuous statement that the a copy of the request for proposal will be made available to any person by the agency. The measure also provides that any state agency proposing to enter a contract for legal services in excess of \$500,000 shall file a copy of the proposed contract with the Governor, who after a public hearing shall issue a report to the state agency that includes any recommended changes approved by the Governor. In no case shall the state incur legal fees and expenses in excess \$1,000 per hour.

Fiscal Analysis

The Senate Amendment to EHB 2167 does not change the fiscal impact of the engrossed version which is as follows:

The requirement that state agencies undertake a request for proposal process before legal services are contracted for, and the cap on hourly legal fees and expenses could potentially reduce the cost of those services.

Long Term Fiscal Considerations

As Stated Above

Fiscal Analysis Reviewed By:

Janice Buchanan

House Fiscal Director