

**BILL SUMMARY**  
2<sup>nd</sup> Session of the 52<sup>nd</sup> Legislature

|                  |                                                             |
|------------------|-------------------------------------------------------------|
| <b>Bill No.:</b> | <b>SB 1379</b>                                              |
| <b>Version:</b>  | <b>Committee Substitute</b>                                 |
| <b>Author:</b>   | <b>Representative McCullough/<br/>Senator Sykes</b>         |
| <b>Date:</b>     | <b>4/19/2010</b>                                            |
| <b>Impact:</b>   | <b>State Agencies: Potential<br/>Legal Services Savings</b> |

**Bill Summary**

Research Analyst: Dante Giancola

The committee substitute for SB1379 provides certain exemptions to the Oklahoma Turnpike Authority and the Oklahoma Department of Transportation as it relates to the Private Attorney Retention Sunshine Act.

SB1379 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.

The title is off the bill.

**Fiscal Summary**

Fiscal Analyst: Terry McKenna

The Committee Substitute for ESB 1379 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 after 120 days. 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. Nothing in the Private Attorney Retention Sunshine Act shall be construed to expand the authority of any state agency or state agent to enter into contracts where no such authority previously existed. Contracts entered into pursuant to the Private Attorney Retention Sunshine Act shall not be subject to the provisions of the Oklahoma Central Purchasing Act. Except for the provisions in subsections B and C of Section 2 and Section 3 of this act, nothing in the Private Attorney Retention Sunshine Act shall apply to the Oklahoma Department of Transportation; and except for the provisions in subsections B and C of Section 2 and Section 3 of this act, nothing in the Private Attorney Retention Sunshine Act shall apply to the Oklahoma Turnpike Authority as it relates to the hiring of private attorneys for bond issuance by the Authority.

### **Fiscal Analysis**

The requirement to open legal services sought by state agencies to competitive bidding and to cap hourly legal fees could potentially reduce the cost of those services.

### **Long Term Fiscal Considerations**

As Stated Above

Fiscal Analysis Reviewed By:

*Janice Buchanan*

House Fiscal Director