



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

4 This act shall be known and may be cited as the "Transparency in  
5 Private Attorney Contingency-Fee Contracts Act".

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

9 As used in the Transparency in Private Attorney Contingency-Fee  
10 Contracts Act:

11 1. "Government attorney" means an attorney employed by the  
12 state as a staff attorney in a state agency;

13 2. "Private attorney" means an attorney in private practice or  
14 employed by a private law firm;

15 3. "State" means the State of Oklahoma, including state  
16 officers, departments, boards, commissions, divisions, bureaus,  
17 councils, and units of organization, however designated, of the  
18 executive branch of state government and any of its agents; and

19 4. "State agency" means every agency, institution, department,  
20 bureau, board, or commission of the State of Oklahoma authorized by  
21 law to retain private counsel through a contingency-fee contract.

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

1 A. The state shall not enter into a contingency-fee contract  
2 with a private attorney unless the Attorney General makes a written  
3 determination prior to entering into the contract that contingency-  
4 fee representation is both cost-effective and in the public  
5 interest. Any written determination may include, but not be limited  
6 to, the following factors:

7 1. Whether there exists sufficient and appropriate legal and  
8 financial resources within the Attorney General's office to handle  
9 the matter;

10 2. The time and labor required; the novelty, complexity, and  
11 difficulty of the questions involved; and the skill requisite to  
12 perform the attorney services properly;

13 3. The geographic area where the attorney services are to be  
14 provided; and

15 4. The amount of experience desired for the particular kind of  
16 attorney services to be provided and the nature of the private  
17 attorney's experience with similar issues or cases.

18 B. If the Attorney General makes the determination described in  
19 subsection A of this section, the Attorney General shall request  
20 proposals from private attorneys to represent the state agency on a  
21 contingency-fee basis, unless the Attorney General determines that  
22 requesting proposals is not feasible under the circumstances and  
23 sets forth the basis for this determination in writing.  
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1 SECTION 4. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 20.4 of Title 74, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. The state shall not enter into a contingency-fee contract  
5 that provides for the private attorney to receive an aggregate  
6 contingency fee in excess of:

7 1. Twenty-five percent (25%) of any recovery of up to Ten  
8 Million Dollars (\$10,000,000.00); plus

9 2. Twenty percent (20%) of any portion of the recovery between  
10 Ten Million Dollars (\$10,000,000.00) and Fifteen Million Dollars  
11 (\$15,000,000.00); plus

12 3. Fifteen percent (15%) of any portion of the recovery between  
13 Fifteen Million Dollars (\$15,000,000.00) and Twenty Million Dollars  
14 (\$20,000,000.00); plus

15 4. Ten percent (10%) of any portion of the recovery between  
16 Twenty Million Dollars (\$20,000,000.00) and Twenty-five Million  
17 Dollars (\$25,000,000.00); plus

18 5. Five percent (5%) of any portion of the recovery exceeding  
19 Twenty-five Million Dollars (\$25,000,000.00).

20 B. In no event shall the aggregate contingency fee exceed Fifty  
21 Million Dollars (\$50,000,000.00), exclusive of reasonable costs and  
22 expenses, and irrespective of the number of lawsuits filed or the  
23 number of private attorneys retained to achieve the recovery.  
24

1 C. For purposes of calculating the contingency fees in  
2 subsections A and B of this section, "recovery" shall include all  
3 damage awards, or settlement amounts agreed upon, but shall not  
4 include any penalties or fines awarded or included as part of the  
5 settlement. A contingency fee shall not be based on penalties or  
6 fines awarded or any amounts attributable to penalties or fines.  
7 Reasonable costs and expenses shall be determined by the court and  
8 may be paid outside of any contingency-fee limitation set out.

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

12 A. The following requirements shall be met throughout the  
13 duration of any contract for contingency-fee attorney services  
14 entered into by the state, and overseen by the Attorney General:

15 1. The Attorney General, or designated government attorney,  
16 shall retain complete control over the course and conduct of the  
17 case;

18 2. The Attorney General, or designated government attorney,  
19 shall assign a government attorney with supervisory authority who  
20 shall be personally involved in overseeing the litigation;

21 3. The Attorney General shall retain veto power over any  
22 decisions made by outside counsel;

1 4. Any defendant that is the subject of the litigation may  
2 contact the lead government attorneys directly, without having to  
3 confer with contingency-fee counsel;

4 5. A government attorney with supervisory authority for the  
5 case, as designated by the Attorney General, shall participate in  
6 all settlement conferences; and

7 6. Decisions regarding settlement of the case shall be reserved  
8 exclusively to the discretion of the Attorney General and the state.

9 B. The Attorney General shall develop a standard addendum to  
10 every contract for contingency-fee attorney services that shall be  
11 used in all cases, describing in detail what is expected of both the  
12 contracted private attorney and the state agency, including, without  
13 limitation, the requirements listed in this act.

14 C. Once the case is resolved, copies of any executed  
15 contingency-fee contract and the Attorney General's written  
16 determination to enter into a contingency-fee contract with the  
17 private attorney shall be posted on the Attorney General's website  
18 for public inspection. Any payment of contingency fees shall be  
19 posted on the Attorney General's website.

20 D. Any private attorney under contract to provide services to  
21 the state or a state agency on a contingency-fee basis shall, from  
22 the inception of the contract until at least four (4) years after  
23 the contract expires or is terminated, maintain detailed records  
24 including documentation of all expenses, disbursements, charges,

1 credits, underlying receipts and invoices, and other financial  
2 transactions that concern the provision of the attorney services and  
3 shall make the records available for the Attorney General upon  
4 request.

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

8 The provisions of the Transparency in Private Attorney  
9 Contingency-Fee Contracts Act shall not apply to entities charged  
10 with self-governance under the Oklahoma Constitution; provided,  
11 those entities shall coordinate with the Attorney General to  
12 maximize efficiency and utilization of existing state resources.

13 SECTION 7. This act shall become effective November 1, 2015.

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15 COMMITTEE REPORT BY: COMMITTEE ON STATE GOVERNMENT OPERATIONS, dated  
16 02-25-2015 - DO PASS, As Coauthored.  
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