

HB 720 -- TRANSPARENCY IN PRIVATE ATTORNEY CONTRACTS ACT

SPONSOR: Parkinson

COMMITTEE ACTION: Voted "do pass" by the Committee on General Laws by a vote of 10 to 5.

This bill establishes the Transparency in Private Attorney Contracts Act. In its main provisions, the bill:

- (1) Prohibits the state from contracting with a private attorney for a contingency fee unless the Attorney General makes a written determination prior to the contract that the contingency fee representation is both cost effective and in the public interest;
- (2) Requires the Attorney General if the determination to contract with a private attorney is made to request proposals from private attorneys to represent the state on a contingency fee basis unless the Attorney General determines and puts in writing that requesting proposals is not feasible under the circumstances;
- (3) Specifies the limits on the amount a private attorney may receive in contingency fees under a state contract;
- (4) Requires a government attorney to retain complete control over the course and conduct of the case and the contracted attorney in any contingency fee contract and requires the Attorney General to include provisions in the contract detailing the expectations of both the contracted attorney and the state;
- (5) Requires a copy of any contingency fee contract, the Attorney General's written determination, and payments of contingency fees to be posted on the Attorney General's web site;
- (6) Requires a private attorney under contract with the state on a contingency fee basis to maintain detailed records of his or her services, expenses, and fees, including time records in increments of no greater than 1/10 of an hour for at least four years after the expiration or the termination of the contract and to make the records available for inspection in accordance with the Open Meetings and Records Law, commonly known as the Sunshine Law; and
- (7) Requires the Attorney General to annually submit a report by February 1 to the General Assembly describing the use of contingency fee contracts with private attorneys in the preceding calendar year and specifies the information which must be included in the report.

FISCAL NOTE: No impact on state funds in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters say that the bill allows the process of hiring a private attorney on a contingency basis to be open and transparent to the public and limits the contingency fee amount that can be paid to the attorney. This will provide protection for the defendant and the state.

Testifying for the bill were Representative Parkinson; Missouri Chamber of Commerce and Industry; and Associated Industries of Missouri.

OPPONENTS: Those who oppose the bill say that the cap on fees may limit the ability of the Attorney General's Office to find quality representation for the state. The language allowing for direct contact between a defendant and the attorney violates the Rules of Ethics and requiring the detailed tracking of time is too burdensome.

Testifying against the bill was Missouri Association of Trial Attorneys.