

**Senate Substitute for HOUSE BILL No. 2228**

By Committee on Judiciary

3-19

1 AN ACT concerning contingent fee contracts for legal services; relating to  
2 contracts entered into for legal services by a political subdivision;  
3 requiring an open meeting before a political subdivision may approve  
4 such a contract; requiring the attorney general to approve such contract  
5 before such contract becomes effective.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. (a) A political subdivision may only enter into a contingent  
9 fee contract for legal services if the governing body of the political  
10 subdivision:

11 (1) Calls a meeting for the purpose of considering the contract and  
12 provides, in the notice or agenda of the meeting issued pursuant to K.S.A.  
13 75-4318, and amendments thereto, the:

14 (A) Reasons for pursuing the matter that is the subject of the legal  
15 services of which the attorney or law firm would be retained and the  
16 desired outcome of pursuing the matter;

17 (B) qualifications, experience and competence of the attorney or law  
18 firm selected or considered for selection by the governing body;

19 (C) nature of any relationship, regardless of how short, between the  
20 political subdivision or governing body and the attorney or law firm that is  
21 a party to the contract;

22 (D) reasons the legal services cannot be adequately performed by the  
23 attorneys and supporting personnel of the political subdivision;

24 (E) reasons the legal services cannot be reasonably obtained from  
25 attorneys under a contract providing for an hourly rate payment structure  
26 as opposed to a contingency fee structure; and

27 (F) reasons entering into a contingent fee contract for legal services is  
28 in the best interest of the residents of the political subdivision;

29 (2) makes a finding, in writing, that:

30 (A) It is in the best interest of the residents of the political subdivision  
31 to contract for the legal services or there is a substantial need for the legal  
32 services that are the subject of the contingent fee contract;

33 (B) the legal services cannot be adequately performed by the  
34 attorneys and supporting personnel of the political subdivision; and

35 (C) the legal services cannot reasonably be obtained from attorneys  
36 under a contract providing for an hourly rate payment structure because

1 the nature of the legal matter that is the subject of the contract or the  
2 political subdivision does not have the funds necessary or would pay  
3 substantially more for the legal services provided under a contract  
4 providing for an hourly rate payment structure; and

5 (3) approves the contract in an open meeting after discussion and  
6 consideration of the items described in paragraph (1).

7 (b) (1) Before a contingency fee contract for legal services approved  
8 by a political subdivision pursuant to subsection (a) is effective and  
9 enforceable, the political subdivision shall obtain approval of the contract  
10 by the attorney general. The political subdivision shall provide to the  
11 attorney general:

12 (A) A copy of the proposed contract;

13 (B) a description of the legal matter that is the subject of the proposed  
14 contract;

15 (C) a copy of the notice and agenda issued pursuant to subsection (a)  
16 (1), the date such notice was issued and a description of the method for  
17 providing such notice; and

18 (D) a copy of the written findings made pursuant to subsection (a)(2).

19 (2) Within 45 days after the political subdivision has provided the  
20 attorney general with the information described in paragraph (1), the  
21 attorney general shall:

22 (A) Approve the contract and, if the request involves a matter of  
23 purely local concern that does not implicate any statewide interest, shall do  
24 so promptly; or

25 (B) refuse to approve the contract for one of the following reasons:

26 (i) The legal matter that is the subject of the contract presents one or  
27 more questions of law or fact that are in common with a lawsuit, demand  
28 or settlement asserting or resolving claims that the state has already  
29 addressed or is pursuing in court;

30 (ii) the legal matter involves claims or issues that are more  
31 appropriately within the scope of state enforcement and the pursuit of the  
32 matter independently by the political subdivision could lead to inconsistent  
33 legal outcomes or undermine the state's unified position; or

34 (iii) the contract does not comply with the Kansas rules of  
35 professional conduct for attorneys adopted by the Kansas supreme court.

36 (3) If the attorney general refuses to approve the contract, the attorney  
37 general shall provide notice to the political subdivision in writing with a  
38 detailed explanation of the reason for refusing to approve the contract. If  
39 the attorney general has not taken action and provided the political  
40 subdivision notice of such action on a contract pursuant to paragraph (2)  
41 within 45 days after receipt of such notice, such contract shall be deemed  
42 approved.

43 (c) In any judicial or quasi-judicial proceeding in which a political

1 subdivision is represented by an attorney providing legal services under a  
2 contingent fee contract for legal services that does not comply with the  
3 provisions of this section, the attorney general may appear in such  
4 proceeding and request that the proceeding be dismissed or intervene and  
5 recover damages on behalf of the political subdivision. If the court or  
6 quasi-judicial body concludes that the contract for legal services does not  
7 comply with the provisions of this section, the court or quasi-judicial body  
8 shall dismiss the matter without prejudice or allow the attorney general to  
9 intervene on behalf of the political subdivision.

10 (d) Any contingent fee contract for legal services that was entered  
11 into by a political subdivision between July 1, 2024 and July 1, 2025, shall  
12 be submitted to the attorney general by the political subdivision on or  
13 before July 1, 2026. The attorney general may review the contract and  
14 approve or refuse to approve the contract pursuant to subsection (b). Any  
15 judicial or quasi-judicial proceeding that is ongoing involving a contingent  
16 fee contract for legal services entered into by a political subdivision shall  
17 proceed unless the attorney general appears in such proceeding as  
18 described in subsection (c).

19 (e) As used in this section:

20 (1) "Contingent fee" means any fee that is contingent on the outcome  
21 of the matter for which the service is rendered;

22 (2) (A) "legal services" means all services:

23 (i) Performed by or under authority of a law firm or attorney, whether  
24 or not such services are performed by someone admitted to practice law in  
25 Kansas; and

26 (ii) that constitute the practice of law in Kansas;

27 (B) "legal services" does not include services performed by:

28 (i) Bond counsel or other attorneys to assist a political subdivision  
29 with services related to bonds, temporary notes, no-fund warrants, state  
30 infrastructure loans or lease financing;

31 (ii) attorneys or other persons to assist a political subdivision in the  
32 collection of unpaid debts, fees, fines, costs, restitution, taxes or utility  
33 bills;

34 (iii) attorneys to recoup costs, including deductibles, from an at-fault  
35 party's insurance company;

36 (iv) attorneys to assist with the sale of property; or

37 (v) court trustees to assist the enforcement of support orders pursuant  
38 to K.S.A. 20-375 et seq., and amendments thereto; and

39 (3) (A) "political subdivision" means:

40 (i) A political or taxing subdivision of the state, including municipal  
41 and quasi-municipal corporations, board, commissions, authorities,  
42 councils, committees, subcommittees and other subordinate groups or  
43 administrative units thereof, receiving or expending and supported, in

1 whole or in part, by public funds; and

2 (ii) any municipality as defined in K.S.A. 75-1117, and amendments  
3 thereto; and

4 (B) "political subdivision" does not include water utilities as defined  
5 in K.S.A. 19-3501, and amendments thereto.

6 (f) The provisions of this section shall expire on July 1, 2029.

7 Sec. 2. This act shall take effect and be in force from and after its  
8 publication in the statute book.