

SENATE Substitute for HOUSE BILL No. 2228

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) the legal services cannot reasonably be obtained from attorneys under a contract providing for an hourly rate payment structure because the nature of the legal matter that is the subject of the contract or the political subdivision does not have the funds necessary or would pay substantially more for the legal services provided under a contract providing for an hourly rate payment structure; and

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

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

(A) A copy of the proposed contract;

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

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

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

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

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

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

(i) The legal matter that is the subject of the contract presents one

or more questions of law or fact that are in common with a lawsuit, demand or settlement asserting or resolving claims that the state has already addressed or is pursuing in court;

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

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

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

(c) In any judicial or quasi-judicial proceeding in which a political subdivision is represented by an attorney providing legal services under a contingent fee contract for legal services that does not comply with the provisions of this section, the attorney general may appear in such proceeding and request that the proceeding be dismissed or intervene and recover damages on behalf of the political subdivision. If the court or quasi-judicial body concludes that the contract for legal services does not comply with the provisions of this section, the court or quasi-judicial body shall dismiss the matter without prejudice or allow the attorney general to intervene on behalf of the political subdivision.

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

(e) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

(i) A political or taxing subdivision of the state, including municipal and quasi-municipal corporations, board, commissions, authorities, councils, committees, subcommittees and other subordinate groups or administrative units thereof, receiving or expending and supported, in whole or in part, by public funds; and

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

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

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

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

I hereby certify that the above BILL originated in the House, and passed that body

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HOUSE concurred in  
SENATE amendments \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*