

SENATE BILL No. 242

By Committee on Judiciary

2-6

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 it 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 of the meeting issued pursuant to K.S.A. 75-4318,
13 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 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) There is a substantial need for the legal services that are the
31 subject of the contingent fee contract;

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

34 (C) the legal services cannot reasonably be obtained from attorneys
35 under a contract providing for an hourly rate payment structure because
36 the nature of the legal matter that is the subject of the contract or the

1 political subdivision does not have the funds necessary to pay the
2 estimated cost of the legal services provided under a contract providing for
3 an hourly rate payment structure; and

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

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

11 (A) A copy of the proposed contract;

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

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

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

18 (2) Within 90 days after the political subdivision has provided the
19 attorney general with the information described in paragraph (1), the
20 attorney general shall:

21 (A) Approve the contract; or

22 (B) refuse to approve the contract and provide the political
23 subdivision with one of the following reasons for the refusal to approve:

24 (i) The legal matter that is the subject of the contract presents one or
25 more questions of law or fact that are in common with a matter the state
26 has already address or is pursuing;

27 (ii) pursuit of the legal matter by the political subdivision will not
28 promote the just and efficient resolution of the matter; or

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

31 (3) If the attorney general has not taken action on a contract pursuant
32 to paragraph (2) within 90 days after receipt, such contract shall be
33 deemed approved.

34 (c) In any judicial or quasi-judicial proceeding in which a political
35 subdivision is represented by an attorney providing legal services under a
36 contingent fee contract for legal services that does not comply with the
37 provisions of this section, the attorney general may appear in such
38 proceeding and request that the proceeding be dismissed. If the court or
39 quasi-judicial body concludes that the contract for legal services does not
40 apply with the provisions of this section, the court or quasi-judicial body
41 shall dismiss the matter without prejudice.

42 (d) Any contingent fee contract for legal services that was entered
43 into by a political subdivision prior to July 1, 2025, shall be submitted to

1 the attorney general by the political subdivision on or before July 1, 2026.
2 The attorney general shall review the contract and approve or refuse to
3 approve the contract pursuant to subsection (b). Any judicial or quasi-
4 judicial proceeding that is ongoing involving a contingent fee contract for
5 legal services entered into by a political subdivision shall proceed unless
6 the attorney general appears in such proceeding as described in subsection
7 (c).

8 (e) As used in this section:

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

11 (2) "political subdivision" means:

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

17 (B) any municipality as defined in K.S.A. 75-1117, and amendments
18 thereto.

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

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