

SUBJECT: Transferring approval of contingent fee legal contracts to attorney general

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Leach, Farrar, Krause, Meyer, Smith, White

3 nays — Y. Davis, Julie Johnson, Neave

WITNESSES: For — (*Registered, but did not testify*: Jon Fisher, Associated Builders and Contractors of Texas; Tiffany Young, Texans Against Lawsuit Abuse, Citizens Against Lawsuit Abuse of Central Texas; Lee Parsley, Texans for Lawsuit Reform; Michael Garcia, Texas Association of Manufacturers; George Christian, Texas Civil Justice League; Jennifer Fagan, Texas Construction Association; David Lancaster, Texas Society of Architects; Cary Roberts, U.S. Chamber Institute for Legal Reform; Tara Snowden, Zachry Corporation)

Against — John Odam, Harris County; Barbara Canales, Nueces County; Michael Gallagher, Texas Trial Lawyers Association; (*Registered, but did not testify*: Jamaal Smith, City of Houston Mayor's Office; Ender Reed, Harris County Commissioners Court; Windy Johnson, Texas Conference of Urban Counties; Shanna Igo, Texas Municipal League; and seven individuals)

On — Jason Frizzell, Comptroller of Public Accounts; Joshua Godbey, Office of Attorney General

BACKGROUND: Government Code sec. 403.0305 prohibits certain public agencies from entering into contingent fee contracts for legal services without review and approval by the comptroller. Public agencies subject to this requirement include any district, city, or other political subdivision or agency of the state that has the power to own and operate waste collection, transportation, treatment, or disposal facilities or systems, as well as certain joint boards.

DIGEST: CSHB 2003 would change the review and approval process for public

agencies seeking to enter into contingent fee contracts for legal services by requiring that such contracts be reviewed and approved by the attorney general rather than by the comptroller.

The bill would not apply to contracts for the collection of delinquent property taxes, delinquent court fines and fees, delinquent accounts receivable, and any type of contract designated by the attorney general by rule based on the insignificance of the risk involved or the existence of express statutory authority for the contract.

CSHB 2003 would apply only to a contract submitted for review and approval on or after the bill's effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

**SUPPORTERS
SAY:**

CSHB 2003 would improve governmental efficiency and better protect the interests of the state by requiring public agencies to obtain the approval of the attorney general rather than the comptroller before entering into contingent fee contracts for legal services.

Given a recent increase in litigation involving public entities, the comptroller has been receiving more contingent fee contracts to review. The attorney general already evaluates contingent fee contracts for many state agencies and would be better positioned to review contracts currently submitted to the comptroller for approval. The bill would not change the law that governs these contracts but simply would transfer approval authority to the attorney general.

**OPPONENTS
SAY:**

CSHB 2003 would create needless uncertainty about the ability of local governments to enter into contingent fee contracts by transferring approval requirements from the comptroller, where the process has been working well, to the attorney general. This could undermine local control and inappropriately concentrate decision-making power with the attorney general.

