

BILL ANALYSIS

Senate Research Center

S.B. 458
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, there are few limits on how or when a local government may enter into a contingency fee contract with outside counsel. As proposed, S.B. 458 clarifies the process a local government must use if it seeks to enter into contingency fee contracts. These procedures would be similar to those that state government entities have been required to follow since 1999.

S.B. 458 requires that outside counsel provide the governmental body with written time and expense records, requires that the contract provide the method for computing the contingency fee based on a set hourly rate and multiplier, and allows for a limit on total reimbursable expenses. All contract provisions would be determined by the governing body of the local government, but the total hourly rate is prohibited from exceeding \$1,000 per hour and the multiplier from exceeding four. Further, S.B. 458 provides safeguards against potential abuses of power and ensures that the commitment of public money by a local government is done with deliberation.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 271, Local Government Code, by adding Subchapter I, as follows:

SUBCHAPTER I. CONTINGENT FEE CONTRACT FOR LEGAL SERVICES

Sec. 271.131. DEFINITIONS. Defines "contingent fee," "contingent fee contract," and "local government entity."

Sec. 271.132. TIME AND EXPENSE RECORDS REQUIRED; FINAL STATEMENT.
(a) Requires a contingent fee contract entered into by a local governmental entity to require that the contracting attorney or law firm keep current and complete written time and expense records that describe in detail the time and money spent each day in performing the contract.

(b) Requires the contracting attorney or law firm to permit the governing body or governing officer of the local government entity or a person designated by that entity to inspect or obtain copies of the time and expense records at any time on request.

(c) Requires the contracting attorney or law firm to provide the contracting local governmental entity with a complete written statement containing certain information on conclusion of the matter for which legal services were obtained. Provides that the complete written statement required by this subsection is public information under Chapter 552 (Public Information), Government Code, and prohibits the statement from being withheld from a requestor under Section 552.103 (Exception: Litigation or Settlement Negotiations Involving the State or a Political Subdivision), Government Code, or any other exception from required disclosure.

(d) Sets forth disclosure requirements for the time and expense records required under this section.

Sec. 271.133. CERTAIN GENERAL CONTRACT REQUIREMENTS. Requires a contingent fee contract entered into by a local governmental entity to contain certain information.

Sec. 271.134. CONTRACT REQUIREMENTS: COMPUTATION OF CONTINGENT FEE; REIMBURSEMENT OF EXPENSES. (a) Sets forth requirements for establishing reasonable hourly rates for an attorney, law clerk, or paralegal who will perform legal or support services under the contract.

(b) Sets forth requirements and guidelines for establishing a base fee.

(c) Requires the contract to provide that the contingent fee is computed by multiplying the base fee by a multiplier based on certain factors. Prohibits the multiplier from exceeding four.

(d) Requires the contract to limit the amount of the contingent fee to a certain stated percentage of the amount recovered and sets forth certain percentage limitations based on certain factors.

(e) Authorizes the contract to include certain other provisions regarding reimbursement and the contingent fee.

SECTION 2. Effective date: September 1, 2005.
Makes application of this Act prospective.