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## DIGEST

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Stuart Bishop

HB No. 799

**Abstract:** Requires certain entities to receive approval for the employment of special attorneys or counsel and provides procedures for requesting and approving employment of special attorneys or counsel.

Proposed law requires express statutory authority for compensation to a special attorney or counsel representing the attorney general, or any state agency, board or commission, or parish or local governmental entity on a contingency fee or percentage basis.

Proposed law provides that any recovery or award of attorney fees including settlement, in litigation involving the attorney general, or any state agency, board or commission belongs to the state and shall be deposited into the state treasury.

Proposed law provides that any recovery or award of attorney fees, including settlement, in litigation involving any parish or local governmental entity belongs to the parish or local governmental entity and shall be deposited into the appropriate depository account and further provides that no payment of attorney fees shall be made out of state funds in the absence of express statutory authority.

Proposed law requires that any special attorney or counsel retained or employed by the attorney general, or any state agency, board or commission, or parish or local governmental entity shall be considered a public servant such that the retention shall not circumvent the requirement of direct payment for services.

Proposed law requires the keeping of accurate records of the hours worked and expenses incurred in the representation of the public entity, and prohibits the entity from incurring fees in excess of \$500 per hour for legal services, and any award in excess of the \$500 per hour shall be reduced to an amount equivalent to \$500 per hour.

Present law requires written approval from the attorney general or governor for the employment of any special attorney or counsel to represent any state board or commission in any matter for which compensation is to be paid for services by application and a resolution setting forth the reasons for the employment of the special attorney or counsel and the proposed compensation.

Proposed law retains present law except that it removes the requirement for the submission of a resolution.

Proposed law requires that any parish governing authority, certain levee boards, parish or city school board, or other local or state board receive written approval of the governor and attorney general prior to retaining or employing a special attorney or counsel, and pay only the compensation that may be designated by the attorney general.

Present law authorizes the attorney general and governor to designate the amount of compensation in the written approval which shall be given in their discretion upon application of the board or commission by a resolution setting forth the reasons for the proposed retention or employment of the special attorney or counsel and the amount of the proposed compensation.

Proposed law provides that the attorney general and governor may designate or approve the amount of compensation in writing and any amendment to the contract requires additional approval through re-submission of the application.

Proposed law requires the applicant to submit an application and a resolution that meets requirements for a resolution as provided by present law. Further requires the applicant to include in his application a copy of the proposed contract and a written statement from the attorney designated to represent the entity, explaining why he could not handle the matter.

Present law prohibits the attorney general and governor from ratifying or approving any action of a board in employing any special attorney or counsel or paying any compensation for special services rendered unless all of the board or commission has complied with all of the formalities regarding the resolution.

Proposed law retains present law and provides for the following additional prohibitions:

- (1) The terms of the resolution do not match the required terms of the contract.
- (2) The need is not sufficiently shown in the resolution.
- (3) The fee is unreasonable.
- (4) Any other reason determined by the governor or attorney general.

Proposed law requires the governor or attorney general to respond to the application in writing by giving approval, conditional approval, or rejecting the application, and if an application is approved, the resolution shall be spread upon the minutes of the body and published in the official journal of the parish for local boards and commissions.

Present law prohibits any parish governing authority, certain levee boards, parish or city school board, or other local or state board from retaining or employing any special attorney or counsel to represent it in any matter or to pay compensation for any legal services unless a resolution fully stating the reasons for the action and the compensation to be paid is approved by the attorney general, and if approved, be spread upon the minutes of the body and published in the official journal of the parish.

Proposed law deletes present law and provides that a resolution requesting special counsel shall include the following:

- (1) A statement showing a real necessity exists.
- (2) A statement fully providing the reasons for the action.
- (3) A full statement of the compensation to be paid.
- (4) If the contract contains a contingent fee, the legislative authority for the fee must be cited.

(Amends 42:262 and 263(A))